

**THE ABU DHABI PRE-CLEARANCE FACILITY:
IMPLICATIONS FOR U.S. BUSINESSES AND
NATIONAL SECURITY**

HEARING

BEFORE THE

SUBCOMMITTEE ON TERRORISM,
NONPROLIFERATION, AND TRADE

OF THE

COMMITTEE ON FOREIGN AFFAIRS

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

JULY 10, 2013

Serial No. 113-43

Printed for the use of the Committee on Foreign Affairs



Available via the World Wide Web: <http://www.foreignaffairs.house.gov/> or
<http://www.gpo.gov/fdsys/>

U.S. GOVERNMENT PRINTING OFFICE

81-871PDF

WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON FOREIGN AFFAIRS

EDWARD R. ROYCE, California, *Chairman*

CHRISTOPHER H. SMITH, New Jersey	ELIOT L. ENGEL, New York
ILEANA ROS-LEHTINEN, Florida	ENI F.H. FALEOMAVAEGA, American Samoa
DANA ROHRABACHER, California	BRAD SHERMAN, California
STEVE CHABOT, Ohio	GREGORY W. MEEKS, New York
JOE WILSON, South Carolina	ALBIO SIRES, New Jersey
MICHAEL T. McCAUL, Texas	GERALD E. CONNOLLY, Virginia
TED POE, Texas	THEODORE E. DEUTCH, Florida
MATT SALMON, Arizona	BRIAN HIGGINS, New York
TOM MARINO, Pennsylvania	KAREN BASS, California
JEFF DUNCAN, South Carolina	WILLIAM KEATING, Massachusetts
ADAM KINZINGER, Illinois	DAVID CICILLINE, Rhode Island
MO BROOKS, Alabama	ALAN GRAYSON, Florida
TOM COTTON, Arkansas	JUAN VARGAS, California
PAUL COOK, California	BRADLEY S. SCHNEIDER, Illinois
GEORGE HOLDING, North Carolina	JOSEPH P. KENNEDY III, Massachusetts
RANDY K. WEBER SR., Texas	AMI BERA, California
SCOTT PERRY, Pennsylvania	ALAN S. LOWENTHAL, California
STEVE STOCKMAN, Texas	GRACE MENG, New York
RON DeSANTIS, Florida	LOIS FRANKEL, Florida
TREY RADEL, Florida	TULSI GABBARD, Hawaii
DOUG COLLINS, Georgia	JOAQUIN CASTRO, Texas
MARK MEADOWS, North Carolina	
TED S. YOHO, Florida	
LUKE MESSER, Indiana	

AMY PORTER, *Chief of Staff*

THOMAS SHEEHY, *Staff Director*

JASON STEINBAUM, *Democratic Staff Director*

SUBCOMMITTEE ON TERRORISM, NONPROLIFERATION, AND TRADE

TED POE, Texas, *Chairman*

JOE WILSON, South Carolina	BRAD SHERMAN, California
ADAM KINZINGER, Illinois	ALAN S. LOWENTHAL, California
MO BROOKS, Alabama	JOAQUIN CASTRO, Texas
TOM COTTON, Arkansas	JUAN VARGAS, California
PAUL COOK, California	BRADLEY S. SCHNEIDER, Illinois
SCOTT PERRY, Pennsylvania	JOSEPH P. KENNEDY III, Massachusetts
TED S. YOHO, Florida	

CONTENTS

	Page
WITNESSES	
Mr. Kevin K. McAleenan, Acting Deputy Commissioner, U.S. Customs and Border Protection, U.S. Department of Homeland Security	4
Mr. Nicholas E. Calio, president and chief executive officer, Airlines for America	28
Captain Lee Moak, president, Air Line Pilots Association, International	34
LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING	
Mr. Kevin K. McAleenan: Prepared statement	7
Mr. Nicholas E. Calio: Prepared statement	30
Captain Lee Moak: Prepared statement	36
APPENDIX	
Hearing notice	52
Hearing minutes	53
The Honorable Alan S. Lowenthal, a Representative in Congress from the State of California: Prepared statement	54
Question submitted for the record to Mr. Kevin K. McAleenan by the Honorable Ted Poe, a Representative in Congress from the State of Texas, and chairman, Subcommittee on Terrorism, Nonproliferation, and Trade	55
Questions submitted for the record to Mr. Kevin K. McAleenan by the Honorable Joe Wilson, a Representative in Congress from the State of South Carolina	56

THE ABU DHABI PRE-CLEARANCE FACILITY: IMPLICATIONS FOR U.S. BUSINESSES AND NATIONAL SECURITY

WEDNESDAY, JULY 10, 2013

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TERRORISM, NONPROLIFERATION, AND TRADE,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 1:30 p.m., in room 2172 Rayburn House Office Building, Hon. Ted Poe (chairman of the subcommittee) presiding.

Mr. POE. The subcommittee will come to order. Without objection, all members may have 5 days to submit statements, questions, extraneous materials for the record subject to the length limitation in the rules.

In early April of this year, the Department of Homeland Security struck an agreement with the UAE to set up a pre-clearance facility in Abu Dhabi International Airport. DHS and CBP both say that there are clear national security benefits to a foreign pre-clearance facility. The logic seems to be simple. Clearing travelers abroad before they reach U.S. soil reduces the threat of terrorism costs to the United States taxpayers for processing troublesome travelers. But if terrorists are going to be smart enough to pull off a terrorist attack against us, they will be smart enough to go to a nearby airport that doesn't have a pre-clearance facility, like Dubai, so the national security benefit seems to be unclear at the moment.

What seems to be clear is that a pre-clearance facility comes across as hurting United States air carriers. Unlike existing CBP pre-clearance facilities, no U.S. airline currently serves Abu Dhabi. The only carrier that does is the state-owned Etihad Airways. A customer from Asia has two choices. That individual can fly with an American carrier, stop in a European city like Frankfurt or Amsterdam, and arrive in a major U.S. gateway city like Houston, where that individual can expect to wait 3 hours or even longer to get through Customs. Or the individual can fly with Etihad and stop in Abu Dhabi, go through Customs in ½ hour and then fly to any U.S. city. Given the choice of 3 hours of waiting to get through Customs with an American carrier or ½ hour to go through Customs somewhere else with Etihad Airways, international customers certainly will make the choice to go with a foreign carrier.

United States' airlines have difficulty already competing with airlines overseas because many of these airlines are state-owned airlines, especially in the Middle East. Therefore, the companies receive direct and indirect financial support from their own governments. These are the same airlines that the United States airlines have to compete with. Now the United States Government wants to contribute to the competitive advantage over U.S. air carriers. One airline tells me it gets 90 percent of its profits from international travel, in fact, that is where it makes money. It then uses the profit margins from international travel to offer lower prices on domestic travel. Generally speaking, domestic travel is not profitable for the American airline industry. So if the Abu Dhabi pre-clearance facility moves forward, it is hard to see how this doesn't lead to higher prices for domestic U.S. flights and Americans losing their jobs.

CBP went to UAE, first asking for permission to put a pre-clearance facility in an airport where U.S. carriers actually go, Dubai. But UAE declined and instead suggested Abu Dhabi. There are no U.S. carriers serving Abu Dhabi because it didn't make economic sense. Dubai had the most traffic. There is now no guarantee that even if U.S. carriers wanted to serve Abu Dhabi, UAE would let it. There is a solution to the problem. Move the pre-clearance facility to an airport in the Middle East that the U.S. carriers already service, like Dubai.

So the two issues are economic issues and national security issues that this committee will be addressing, and our witnesses will be commenting on this afternoon. I will now turn to the ranking member, Mr. Sherman from California, for 5 minutes for his opening statement.

Mr. SHERMAN. Thank you. Rare is it that a government operation of this size arouses such controversy, but that is understandable as the chairman points out. I think this is a slight national security improvement. It just means three planes a day are going to be subject to greater scrutiny. One would say, well, then those who wish us harm might be subject to scrutiny if they do something else. But if somebody is in Abu Dhabi and chooses not to be on one of these pre-screened planes, all they have to do is fly from Abu Dhabi to Lagos and then proceed to the United States. They won't be pre-cleared in Abu Dhabi, they won't be pre-cleared in Lagos, especially if they do not declare their interest in coming to the United States until they get to Lagos.

We need to promote tourism. The chairman and I are trying to create a circumstance where Israel is a visa-waiver country. Israelis travel easily to Europe, and if they can travel as easily to the United States we will get those tourist dollars. Another way to promote tourism would be to allow people to post a bond. If the Customs officer says, well, for economic reasons you may overstay, and you post a \$25,000 or \$50,000 bond, then it is clear that you are not going to overstay for economic reasons. The State Department resists this. It interferes with the total carte blanche authority of their visa officers to say you get in and you don't get in, and the visa process is one of the greatest deterrents to tourism to the United States. And when we have tourism to the United States we

get all the tourist dollars spent here, plus we get about half the airline dollars of people visiting.

As to the Customs process, I sure hope it doesn't take 3 hours at Houston. One of the things I hope we hear testimony on is whether, in fact, Abu Dhabi will have an advantage. Will it be faster there than it is on average at JFK, Houston or anywhere else a plane from the Middle East might land? Why would we staff Abu Dhabi to the point where the waiting times there, the convenience there, is greater than it is elsewhere?

There is a slight benefit to all tourism of this, and that is, we get 25 officers for the price of five with Abu Dhabi paying 80 percent of the cost. That means there will be hundreds of people that don't have to go through the process at JFK or elsewhere, and maybe that will make the line move slightly quicker, and maybe that will enhance our efforts to attract tourism. But I think the chairman is right to question, why Abu Dhabi? Why not Frankfurt, why not Dubai, why not other airports where American carriers are present?

We will want to also hear what restrictions there are and fees would be imposed if an American flag carrier decided to operate in Abu Dhabi, and whether they would really be given access. But the fact is, perhaps if we save money because Abu Dhabi is funding 80 percent of this operation, perhaps that will allow Homeland Security to also provide the services in Dubai whether or not we get a contribution from the Dubai airport authority or other Dubai governmental entities.

It is understandable that an agency of the Federal Government subject to sequester, subject to furloughs, and subject to waiting times that deter economic activity and tourism to the United States would say, well, gee, can't we get another source of revenue? But if the net effect of this is to diminish the number of people who fly on U.S. carriers and to give an unfair advantage to the airline based in Abu Dhabi, then what looks like a good deal for American taxpayers may, in fact, not be. And I yield back to the chairman.

Mr. POE. Thank you, Ranking Member. Members who wish to make an opening statement have 1 minute. Mr. Cook from California is recognized for 1 minute.

Mr. COOK. Thank you Mr. Chair. I will be very quick. I have many of the same concerns about the cost to the American taxpayers and why we are doing this. Cost benefit analysis, I am not going to go over the same things that have been mentioned by the chair and the ranking member, but right now I just cannot get through my head why in God's name we are doing this. So I yield back and want to hear what the panelists have to say. Thank you.

Mr. POE. Thank the gentleman. Mr. Perry from Pennsylvania, recognized for 1 minute.

Mr. PERRY. Thank you Mr. Chairman, and thank you for bringing attention to this important issue today. I do have strong concerns with the Department of Homeland Security and its plan to establish a U.S. Customs and Border Protection pre-clearance facility at Abu Dhabi International Airport in the United Arab Emirates. This policy, in my opinion, will negatively impact the U.S. economy and in particular the U.S. airline industry. The establishment of this facility in Abu Dhabi primarily benefits only a foreign

emirate and its wholly-owned national carrier, giving it a competitive advantage over U.S. airlines, their employees, and their customers who pay \$1.5 billion in annual user fees. And I will wait to hear the testimony and ask questions. And Mr. Chairman, I yield back.

Mr. POE. Thank the gentleman. Mr. Yoho from Florida, 1 minute.

Mr. YOHO. I thank you, Mr. Chairman and Ranking Member, for holding this hearing today. This hearing allows us to exercise our proper oversight function over a decision to have a pre-clearance facility in Abu Dhabi. My goal today is to find out why Abu Dhabi was chosen, the criteria that went into the decision and if there are better uses with our resources. With close to \$17 trillion in debt we must ensure that every tax dollar we spend from the hardworking taxpayers of this country on any endeavor is done strategically and efficiently. I am curious if other sites in other countries may be a better place to put our resources, and I look forward to hearing what our witnesses have to say on that subject, and I look forward to hearing you. Thank you. I yield back, Mr. Chairman.

Mr. POE. I will introduce our first witness.

Kevin McAleenan began serving and acting as Deputy Commissioner of the U.S. Customs and Border Protection on March 30th, 2013. Congratulations in your new role. Mr. McAleenan is the chief operating official of the 60,000-employee border agency. He previously served as the Deputy Assistant Commissioner in the Office of Field Operations and Director of the Office of Antiterrorism. Thank you for being here, and you have 5 minutes. Thank you.

STATEMENT OF MR. KEVIN K. MCALEENAN, ACTING DEPUTY COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. MCALEENAN. Good afternoon.

Thank you, Mr. Chairman, Ranking Member Sherman, distinguished members of the subcommittee. It is a privilege to appear before you today to discuss U.S. Customs and Border Protection's multi-layered strategy to secure America's borders and facilitate legitimate travel.

As a unified border security agency for the United States, CBP has the primary mission of preventing terrorists and terrorists' weapons from entering the country. As a key operational component of the Department of Homeland Security and in response to the tactics adopted by international terrorist organizations, a critical objective of CBP strategy is to extend our zone of security, and in collaboration with international partners interdict threats as far away from the homeland as possible.

CBP pre-clearance operations accomplish this objective by allowing for the same functions conducted at a U.S. port of entry to occur on foreign soil prior to departure for the United States. Indeed, Congress has directed DHS to expand the use of this important security program by establishing additional pre-clearance locations to prevent potential terrorists and inadmissible persons from boarding aircraft destined for the United States. Under the agreement with the United Arab Emirates, the UAE, CBP officers to be posted in Abu Dhabi will operate with a full array of legal authorities and will be empowered to conduct inspections and searches of

individuals and baggage prior to boarding aircraft. In fact, CBP officers in Abu Dhabi will have broader authorities than in any other pre-clearance location. They will be in uniform and they will have access to their full complement of law enforcement tools.

Pre-clearance operations in Abu Dhabi will provide clear benefits to U.S. security in a highly cost-effective manner. In addition to enhancing security by allowing CBP to prevent high-risk travelers from boarding the aircraft from Abu Dhabi to the United States, it will strengthen law enforcement partnerships and information sharing with the key international partner in the region, and will improve facilitation of international travel by reducing wait times and increasing capacity at domestic gateway airports.

Abu Dhabi is a growing transit hub for global travel and commerce in the Middle East. It is also a strategic transit location for terrorist related travel, including watch listed individuals in the terrorist screening database and passengers whose travel history presents intelligence based risk factors. The UAE receives direct flights from a number of areas with active international terrorist operations and logistics, constituting high-risk pathways for terrorist travel including Yemen, Pakistan, Iraq, Iran, Lebanon, Bangladesh, Saudi Arabia, India, and Africa including Egypt, Nigeria and Sudan.

In response to these terrorist travel threats, Abu Dhabi pre-clearance will allow DHS to project a core security program closer to source countries for extremist activity and to identify and interdict threats to the United States early in the travel cycle. CBP officers working in a pre-clearance context will be able to interview, capture biometrics, and examine luggage and electronic media of both known terrorists and non-watch listed travelers that present intelligence based risk factors.

CBP's planned pre-clearance operation in Abu Dhabi would be extremely cost effective, representing a net increase in CBP's capacity due to the willingness of the UAE to share the financial burden. Under existing statutory authority, CBP is able to receive reimbursement for services related to immigration and agriculture activities. In total, CBP anticipates receiving reimbursement for approximately 85 percent of the cost. At currently anticipated volumes, this means that CBP would gain the equivalent of approximately 15 officers and additional processing capacity of up to 400,000 passengers. As a result, pre-clearance operations in Abu Dhabi will also aid passenger processing at key international gateway airports in the United States.

By the end of the year there will be four daily flights from Abu Dhabi to U.S. airports. These flights arrive at congested terminals at New York JFK, Chicago O'Hare and Dulles International Airport and soon at LAX, during peak traffic periods. Given the high percentage of non-U.S. citizens who take longer to process on these flights, passenger traffic from Abu Dhabi contributes to significant wait time challenges that inconvenience all international travelers including those arriving on U.S. carriers.

Pre-clearance at Abu Dhabi would relieve congestion in these terminals and contribute to reduced peak period wait times for travelers at these key U.S. airports, as well as opening up additional processing capacity for international flights and supporting the

U.S. economy with increased travel exports. Etihad Flight 151 is a good example. This flight is a Boeing 777 arriving daily into O'Hare with an average of 380 passengers directly in the middle of O'Hare's peak traffic period. Pre-clearance of this flight would remove almost 20 percent of the arriving travelers from processing queues at that time, reducing wait times and opportunity costs for the carriers and for the travelers arriving during this period.

Pre-clearance operations in Abu Dhabi offer CBP and DHS an unprecedented opportunity to project America's border and aviation security efforts into the Middle East while gaining processing capacity and officer resources. This is a cost effective opportunity to protect the American public and international aviation that should not be missed.

Mr. Chairman, Ranking Member, and members of the subcommittee, thank you for this opportunity to testify. I look forward to answering your questions.

[The prepared statement of Mr. McAleenan follows:]

TESTIMONY OF

KEVIN K. MCALEENAN
Acting Deputy Commissioner

U.S. Customs and Border Protection
Department of Homeland Security

BEFORE

House Committee on Foreign Affairs
Subcommittee on Terrorism, Nonproliferation, and Trade

ON

“The Abu Dhabi Pre-Clearance Facility:
Implications for U.S. Businesses and National Security”

July 10, 2013
Washington, DC

Chairman Poe, Ranking Member Sherman, and distinguished members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the role preclearance operations in U.S. Customs and Border Protection's (CBP) multi-layered strategy in securing America's borders and facilitating legitimate trade and travel.

CBP's preclearance operations are an important step in the U.S. government's effort to prevent terrorism from coming to our borders. As President Obama said at the National Defense University on May 23, "the threat has shifted and evolved from the one that came to our shores on 9/11." After 9/11, as this Subcommittee is well aware, a host of measures were put in place by the Congress and the Executive Branch to increase security at U.S. airports and ports of entry. Today, the Department of Homeland Security (DHS) and CBP have access to improved screening tools, new legal authorities, and thousands of trained security professionals that make it harder than ever, for a terrorist to enter the United States by air. However, the threat continues to evolve. The attempted terrorist attack on American Airlines Flight 63 from Paris to Miami on December 22, 2001, and on Northwest Airlines Flight 253 from Amsterdam to Detroit on December 25, 2009, demonstrate that terrorists seek to avoid U.S. screening and targeting efforts by carrying out attacks on U.S.-bound aircraft before arrival in the United States.

It is the responsibility of DHS, and CBP, to do what we can to anticipate terrorists' tactics and develop measures to prevent them from succeeding. Preclearance, and similar programs like the Immigration Advisory Program (IAP), are among the most effective means we have developed to disrupt such attacks. Screening passengers abroad, an activity that is normally conducted upon landing in the United States, reduces the risk of attack by helping to keep dangerous people and goods off aircraft bound for the United States. CBP works with our international partners around the world to set up either preclearance or an Immigration Advisory Program (IAP) presence where the security and facilitation benefits are the greatest and where our relations with our international partners are the strongest.

Extending the Zone of Security

On a typical day, CBP welcomes to the United States nearly a million travelers at our air, land, and sea ports of entry (POEs). The volume of international air travelers increased by 12 percent from 2009 to 2012 and is projected to increase 4 to 5 percent each year for the next five years.¹

A critical objective of CBP's multi-layered strategy is to extend our zone of security to interdict threats as far from the homeland as possible, working closely with our international partners. As the threat has evolved to include not only aircraft present in the United States, but also aircraft bound for the United States, we can no longer view our border as the first line of defense, but rather one of the last lines of defense. We accomplish this security objective through targeting, using passenger information provided in advance of travel, to focus on those of greatest security concern. We also leverage international relationships, such as by operating preclearance and IAP in foreign airports, to interdict threats before they pose a risk to an aircraft or other US bound conveyance.

Targeting

In order to make risk-based operational decisions before a passenger boards an aircraft, and continuing until the traveler enters the United States, CBP leverages all available advance information on in-bound passengers. Throughout the travel process – from reservation, to check-in, to boarding at a foreign point of origin – CBP devotes its resources to identifying the highest threats, including those who may not have been exposed by the Intelligence community. As a result of advance travel information, CBP assesses passenger risk ahead of time, often days before a traveler boards a plane. The visa process, run by the Department of State, provides one source of information, and for travelers under the Visa Waiver Program, CBP has the opportunity to assess their risk via the Electronic System for Travel Authorization (ESTA). CBP assesses travelers' risk when they purchase their ticket and/or make a reservation, and when they

¹ U.S. Commerce Department Forecast of Growth in International Travel to the United States Through 2016. <http://www.commerce.gov/news/press-releases/2012/04/23/us-commerce-department-forecasts-growth-international-travel-united-s>.

check-in for their flight. Currently, in all cases before an international flight departs for the United States from a foreign point of origin, the airline transmits passenger and crew manifest information to CBP. CBP's National Targeting Center (NTC) then reviews traveler information to identify travelers who could be determined inadmissible upon arrival. Preclearance augments this capability, by allowing CBP to take action against high-risk travelers, including those who may be determined to be inadmissible based on additional interviews. Furthermore, certain malicious actors, such as perpetrator of the attempted bombing aboard Northwest Airlines Flight 253 Umar Farouk Abdulmutallab, may be unknown to law enforcement or the intelligence community, but pose an immediate threat to aviation. Preclearance affords the United States the ability to interdict such threats and work with our international partners to ensure that they never board the aircraft in the first place.

Immigration Advisory Program

CBP established the IAP to enhance efforts to prevent terrorists and high-risk travelers from boarding commercial aircraft destined to the United States. IAP officers are stationed at major gateway airports in Western Europe and have a presence in Asia and the Middle East including Amsterdam, Frankfurt, London Heathrow, London Gatwick, Manchester, Madrid, Paris, Tokyo, and Doha. Building on the IAP concept, CBP launched the Joint Security Program (JSP), partnering with host country law enforcement to identify air passengers linked to terrorism, narcotics, weapons, and currency smuggling. JSP officers are posted in Mexico City and Panama City. Using advance information from the NTC, IAP officers work in partnership with host government authorities to identify possible terrorists and other high-risk passengers. When a threat is identified, IAP officers issue no-board recommendations to commercial air carriers, helping to prevent terrorists, high-risk and improperly-documented travelers from boarding commercial flights destined for the United States. In Mexico and Panama, JSP officers collaborate with host government law enforcement to jointly engage travelers arriving into and departing the host country (U.S. and foreign-to-foreign commercial flights). Using mobile technology, IAP and JSP officers conduct database queries and coordinate with the NTC to confirm whether a traveler is a watchlisted individual. IAP and JSP officers also evaluate the potential risks presented by non-watchlisted travelers. Since the inception of the program, CBP

has been successful in preventing the boarding of 18,366 high-risk and improperly documented passengers from IAP and JSP locations. This effort significantly increases security and reduces the cost to the U.S. Government and the airlines required to return inadmissible travelers to their points of origin. Cumulative IAP and JSP no-board recommendations have resulted in an estimated savings to CBP of \$32.4 million in adverse action processing costs for travelers who would have been denied entry at U.S. ports of entry and an estimated savings to commercial carriers of \$29.5 million in averted fines associated with the transportation of improperly-documented travelers.

The IAP and JSP programs are based on the cooperation of the airlines and the host government. IAP and JSP officers do not have the legal authority to compel air carrier or traveler compliance that CBP officers have at a port of entry in the United States or at a preclearance facility overseas. Nevertheless, an IAP or JSP officer's no-board recommendation to an air carrier regarding inadmissible travelers, while not legally binding, are generally accepted and followed by airlines.

Preclearance Operations

Preclearance operations support CBP's extended border strategy by providing for the inspection and clearance of commercial passengers on foreign soil.

Preclearance operations allow CBP to staff officers at host airports and complete the same inspectional processes of passengers as at a domestic port of entry. CBP officers are in uniform, and have the legal authorities to question travelers and inspect luggage. All mission requirements are completed at the preclearance port prior to travel, including immigration, customs, and agriculture inspections. This process allows the aircraft to arrive at a domestic airport gate in the United States and travelers to proceed to their final destination without further CBP processing, a major efficiency for travelers. Passengers at a preclearance facility found to be inadmissible to the United States are denied boarding to the airplane. Currently, CBP operates 14 air preclearance locations in five countries: Canada (Calgary, Edmonton, Halifax, Montreal, Ottawa, Toronto, Vancouver and Winnipeg), Ireland (Dublin and Shannon), The

Bahamas (Freeport and Nassau), Aruba and Bermuda. CBP also conducts immigration preinspection on ferries in Victoria, Canada and on cruise vessels and trains in Vancouver, Canada.

Of the two international programs, preclearance offers additional benefits for both security and the facilitation of travel and trade. Through preclearance, CBP is able to work with foreign law enforcement officials and commercial carriers to prevent the boarding of potentially high-risk travelers, leveraging its full legal authority, as opposed to a purely advisory role. Preclearance is also more efficient. Whereas passengers arriving in the United States from an airport with an IAP presence will be subject to inspection by CBP upon arrival, passengers arriving from a preclearance location may proceed to their final destination without further CBP processing, as if they had arrived on a domestic flight. Reinforcing the CBP's layered approach to security, CBP always retains the authority to conduct further inspection or engage in enforcement action of a pre-cleared flight upon its arrival in the United States. IAP is a voluntary program, whereas preclearance provides for the complete security screening and formal determination of admissibility to the United States for all travelers before they ever board U.S.-bound flights. In light of the terrorist threat we face now and in the future, there will be locations where preclearance provides important security benefits available in no other way.

In Fiscal Year (FY) 2012, CBP officers processed 15.6 million travelers for entry into the United States at international preclearance locations, which included 29 percent of all commercial aircraft and 18 percent of travelers arriving by air destined for the United States. Over 8,000 inadmissible travelers were intercepted at preclearance locations, allowing the U.S. government to avoid about \$20 million in detention, processing and repatriation costs that would have been generated had they been caught upon arrival. However, no new preclearance locations have been established since 2006 due to the cost of stationing CBP officers and their dependents overseas,² and the fact that many foreign countries where preclearance would be beneficial do not permit

² To establish and maintain a preclearance location, CBP incurs additional costs beyond that of standard salaries and benefits, including continuous international relocations, housing and education allowances, and shared costs in the Department of State's International Cooperative Administrative Support Services (ICASS) system applied to all federal entities at diplomatic and consular post.

CBP officers to exercise the full authorities, privileges, and immunities required to carry out our mission.

Benefits of Preclearance Operations in UAE

After the December 25, 2009 attempted terrorist attack on Northwest Airlines Flight 253, CBP, along with DHS and members of the counterterrorism community, renewed efforts in security programs in the Middle East and the Horn of Africa to identify and interdict threats before they board an aircraft, particularly those threats which may not be foreshadowed by intelligence.

The United States and the United Arab Emirates (UAE) share many interests as partners in security and economic growth. On April 15, 2013, DHS and the UAE signed an agreement to establish preclearance operations in Abu Dhabi. Under the contemplated UAE preclearance operations, CBP officers would be allowed a full complement of authorities to question and search individuals and baggage, would have access to the full complement of technology systems, and would be authorized to have access to firearms and other law enforcement tools. The underlying principal of this agreement is the mitigation of threats, both known and unknown, based on our analysis of current threats.

An Abu Dhabi preclearance location offers the United States significant security and facilitation benefits that are not achievable in other ways. In addition, there will be a net resource gain compared to domestic processing of the same flights. Accordingly, establishing preclearance operations in Abu Dhabi will provide clear benefits to U.S. security in a highly cost effective manner.

Security

Preclearance operations in Abu Dhabi would assist CBP in preventing terrorists, illicit cargo and other national security threats from gaining access to aircraft flying to the United States from the UAE. As examples of the importance of engagement with the UAE for preclearance activities to enhance U.S. security:

- Abu Dhabi ranks in the top 10 origination airports for travelers who are positive matches to the Terrorist Screening Database (TSDB).
- UAE receives flights from Yemen, North and East Africa (Morocco, Nigeria, Kenya, Ethiopia, and Sudan), Saudi Arabia, Pakistan, Iraq, Iran, Lebanon, Bangladesh, and India, all high risk pathways for terrorist travel.
- Fewer than 5 percent of refused travelers arriving on flights from Abu Dhabi in the last two years were Emirati citizens; most were transit passengers from India, Saudi Arabia, Pakistan, and Bangladesh.
- 70 percent of the U.S.-bound commercial passengers from Abu Dhabi International Airport are in-transit from other countries.

Given these threats, and the specific routings and transit traffic through Abu Dhabi, preclearance provides clear U.S. security benefits by allowing DHS to project a core security program closer to source countries for violent extremist activity. CBP officers will have the ability and authority to inspect and interview passengers and examine baggage and personal effects prior to departure to the United States. Preclearance operations in Abu Dhabi will enhance law enforcement partnership and information sharing with a key international partner in the region and would allow CBP to inspect and interview travelers presenting intelligence-based risk factors identified through our targeting enterprise.

Preclearance also protects the security of U.S. agricultural infrastructure and public health from the spread of foreign pests, disease, and global outbreaks. For example, in the last two years, CBP has seen a 400 percent increase in interceptions of the destructive *Trogoderma granarium* (Khapra beetle), one of the most devastating agricultural pests from that region, mostly in luggage of passengers originating from or transiting the Middle East. The Khapra Beetle is frequently found in rice and other commodities from India, Pakistan, and the Arabian Peninsula. With preclearance operations in Abu Dhabi, CBP agriculture specialists would be able to

increase interdiction efforts against these and other pest threats before they arrive on American soil. In addition, preclearance provides CBP with an important opportunity to interrupt the spread of global outbreaks to the United States, such as the H7N9 bird flu and the Middle East respiratory syndrome coronavirus. U.S. Immigration and Customs Enforcement, Homeland Security Investigations, has an Attaché office located in the U.S. Embassy in Abu Dhabi to follow up on any investigative leads generated from CBP preclearance operations.

Facilitation

CBP is seeking to establish preclearance in the UAE for both security and facilitation considerations. Abu Dhabi is increasingly a key transit location, with more than 200,000 passengers arriving in FY 2012, and an expected increase in FY 2013 up to 400,000 passengers. Currently, there are three daily flights from Abu Dhabi to U.S. airports with additional service expected by the end of the calendar year. These flights arrive during peak traffic periods at congested terminals at John F. Kennedy International Airport (JFK), Chicago O'Hare International Airport (ORD), and Dulles International Airport (IAD). Given the high percentage of non-U.S. citizens on these flights, who take longer to process, passenger traffic from Abu Dhabi contributes to significant wait times that inconvenience all international travelers, including those arriving on U.S. carriers from other locations.

If these processes can be accomplished in Abu Dhabi, it not only removes the burden from CBP officers at these key domestic airports, but those CBP officers can devote time and attention to other travelers. For example, Etihad flight 151, a Boeing 777, arrives at ORD with an average of 380 passengers daily at 3:35 p.m., directly in the middle of ORD's peak traffic period. Preclearing this flight would remove almost 20 percent of the arriving travelers from processing queues at ORD during this peak hour and provide a significant, positive impact on primary and secondary examination wait times. This would not only provide economic benefits to the carriers and travelers arriving during this period, it would also free CBP officers at ORD to focus their efforts on other travelers arriving from other origination points. Similar benefits would be achieved at JFK and IAD as well.

Legal Framework

Authority for performing immigration preinspection services in a foreign country is provided in the Immigration and Nationality Act (INA).³ Specifically, section 103(a)(7) of the INA provides for the establishment of immigration offices in foreign countries and assignment of immigration employees to those offices to accomplish the purposes of the INA.⁴ Regarding the provision of customs examination services overseas, the Anti-Drug Abuse Act of 1986 amended the Tariff Act of 1930 and addresses the stationing of customs officers in foreign countries, pursuant to treaty or executive agreement, to conduct preclearance of persons and merchandise prior to their arrival in the United States.⁵ For agricultural inspection services, the Homeland Security Act of 2002 transferred certain agricultural import and entry inspection functions of the Secretary of Agriculture to the Secretary of Homeland Security.⁶

In the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Congress recognized the importance of preinspection facilities overseas, directing the establishment of “preinspection stations in at least five of the foreign airports that are among the 10 foreign airports which the Attorney General [now Secretary of Homeland Security] identifies as serving as last points of departure for the greatest numbers of inadmissible alien passengers who arrive from abroad by air at ports of entry within the United States.”⁷ The preinspection stations authorized by the Illegal Immigration Reform and Immigrant Responsibility Act were in addition to those established prior to 1996.

Congress expanded the preinspection program in the Intelligence Reform and Terrorism Prevention Act of 2004. In that law, Congress directed the Secretary, in consultation with the Secretary of State, to “establish preinspection stations in at least 25 additional foreign airports . . .

³ Pub. L. No. 82-414, § 103(a), 66 Stat. 163, 174 (codified as amended at 8 U.S.C. § 1103(a)(7)).

⁴ *Id.* (“[The Secretary of Homeland Security] may, with the concurrence of the Secretary of State, establish offices of the Service in foreign countries; and, after consultation with the Secretary of State, he may, whenever in his judgment such action may be necessary to accomplish the purposes of this chapter, detail employees of the Service for duty in foreign countries.”).

⁵ Pub. L. No. 99-570, § 3128, 100 Stat. 3107 (codified as amended at 19 U.S.C. § 1629(a)) (“When authorized by treaty or executive agreement, the Secretary may station customs officers in foreign countries for the purpose of examining persons and merchandise prior to their arrival in, or subsequent to their exit from, the United States.”).

⁶ Pub. L. No. 107-296, § 421, 116 Stat. 2135 (codified as amended at 6 U.S.C. § 231).

⁷ Pub. L. No. 104-208, § 123(a), 110 Stat. 3009 (codified as 8 U.S.C. § 1225a(a)(1)).

. [that] would most effectively facilitate the travel of admissible aliens and reduce the number of inadmissible aliens, especially aliens who are potential terrorists, who arrive from abroad by air at points of entry within the United States.”⁸

Cost Reimbursement

While it is prohibited by relevant law to charge, other than the routine customs user fees, for customs preclearance activities,⁹ the Secretary may seek reimbursement for certain immigration and agriculture preinspection services. To facilitate cost-effective immigration preinspection services, Congress authorized the Secretary “to receive reimbursement from the owner, operator, or agent of a private or commercial aircraft or vessel, or from any airport or seaport authority for expenses incurred by the [Secretary] in providing immigration inspection services which are rendered at the request of such person or authority (including the salary and expenses of individuals employed by the [Secretary] to provide such immigration inspection services). The [Secretary’s] authority to receive such reimbursement shall terminate immediately upon the provision for such services by appropriation.”¹⁰

Similarly, the Secretary may accept reimbursement for agricultural preinspection services under the Homeland Security Act of 2002.¹¹ The provisions of 7 U.S.C. § 8311 authorize the Secretary to enter into reimbursable fee agreements for the preclearance of animals or articles for movement into the United States at foreign locations.¹²

The UAE airport authority has offered to reimburse CBP for the full cost of operation to the extent authorized by U.S. law. Under existing statutory authorities, CBP can accept reimbursement for approximately 85 percent of our costs associated with immigration and agriculture-related inspectional activities. CBP will seek reimbursement for all allowable costs associated with preclearance operations at Abu Dhabi, such as immigration and agriculture

⁸ Pub. L. No. 108-458, § 7210(d)(1), 118 Stat. 3836 (codified as amended at 8 U.S.C. § 1225a(a)(4) (2004)).

⁹ 19 U.S.C. § 58e(c)(6)(B).

¹⁰ 8 U.S.C. § 1356(i).

¹¹ 7 U.S.C. § 8311(a), (b); *see also* 6 U.S.C. § 231 (transferring reimbursement authority from the Secretary of Agriculture to the Secretary of Homeland Security).

¹² 7 U.S.C. § 8311(a), (b).

inspectional services, under the existing authorities in titles 7 and 8 of the U.S. Code described earlier. The current average salary and benefit cost for a CBP officer at a domestic port of entry is \$119,000, but using these existing reimbursement authorities CBP anticipates the effective cost per officer in Abu Dhabi will be approximately \$21,500 per year. CBP estimates costs of opening and maintaining a preclearance location in Abu Dhabi to be approximately \$5 million annually, which includes the relocation of CBP officers to Abu Dhabi, the salaries, benefits, and all operating costs, but with reimbursement that total cost to CBP would be less than \$500,000.

As a result of the costs to be reimbursed by the UAE airport authority, CBP anticipates that the cost per passenger will be approximately 16 percent of domestic cost per passenger. Proposed reimbursement from the UAE airport authority would be deposited into existing user fee accounts, which already receive routine user fees collected by air carriers globally. Moreover, these accounts defray CBP costs for a broad set of expenses (i.e., not just employees' salaries). In general, CBP officer salaries come from a variety of sources, including the agency's annual appropriation and applicable user fees collected by airlines, and would not plausibly be viewed by CBP personnel as a source of funding dependent on Abu Dhabi in a manner that could compromise integrity. Any officers deployed abroad, as with all overseas deployments of CBP personnel, would have positions to return to at United States POEs and would not be subject to untoward influence from this arrangement.

Two additional categories of savings will also accrue to CBP: cost savings for travelers deemed inadmissible in Abu Dhabi, and an estimated savings of 15-16 officers at U.S. airports due to the partial reimbursement of UAE preclearance operations. Denying admission to the United States at a preclearance location precludes costs, such as enforcement processing, detention, monitoring, transportation, and repatriation costs, that are normally borne by DHS and CBP at the U.S. port of arrival. Meanwhile, the savings realized through partial reimbursement of CBP officers posted in Abu Dhabi would allow up to 15 domestic officers to be redirected to process traffic arriving from other international airports.

Overall, taking into account the reimbursement strategy — savings for travelers refused admission, officer savings and enhanced processing at domestic airports — the preclearance

operation at Abu Dhabi has the potential to be the most cost-effective airport operation globally for CBP.

U.S. Air Carrier Concerns

Several U.S. air carriers and labor unions have expressed concern that they would be competitively disadvantaged by this preclearance agreement. However, the terms of the agreement with the UAE permit all carriers to have an equitable opportunity in requesting preclearance services from CBP. Some carriers have also raised specific concerns that Etihad Airways, the national carrier of the UAE (though not the only or even largest airline based in the UAE; Emirates, based in Dubai, is much larger), will be the sole beneficiary of preclearance in Abu Dhabi. On this point, it is noteworthy that in April 2013, American Airlines signed a codeshare partnership with Etihad and is selling tickets on the daily flights between Abu Dhabi and the U.S. airports, among many other destinations. The Abu Dhabi International Airport, moreover, has expressed interest in offering landing rights to U.S. carriers with equitable terms to any other carrier, and gives every indication that preclearance departure gates will be available daily for U.S. carriers to operate out of Abu Dhabi if they so choose. But again, it should be noted that the underlying principal of this agreement is the mitigation of threats, both known and unknown, based on our analysis of current threats.

Conclusion

As the terrorist threat continues to evolve, CBP and DHS are determined to stay ahead of it. We cannot afford to do otherwise. Attacks on U.S.-bound international flights are a real security threat, and CBP relies on the best intelligence and analysis available to counter these threats. Intelligence alone, however, is not enough. While no single layer of a layered defense can ever be perfect, one of best means we have to disrupt and deter such threats is the eyes-on presence of a CBP officer overseas, before travelers board the flight to the United States. Preclearance gives us that advantage. DHS continues to pursue opportunities to collaborate with partner nations globally on aviation security and travel facilitation. Preclearance in Abu Dhabi will enhance U.S. security objectives and continue to build on a strategic partnership with the UAE, a key ally

in the Middle East. The UAE supports our goals on Syria, Iran, Libya, and Afghanistan and is a strong military partner for the United States. The Abu Dhabi preclearance agreement includes a reimbursable structure that has the potential to make preclearance operations in Abu Dhabi the most cost effective CBP airport operation globally, providing a net increase in passenger processing capacity while also strengthening security. Chairman Poe, Ranking Member Sherman, and Members of the Subcommittee, thank you for this opportunity to testify. I look forward to answering your questions.

Mr. POE. Thank you for your testimony.

I will ask you some questions for 5 minutes, and we will try to get in as much as we can before we hear that votes will be relatively soon.

I see two factors involved in this whole situation. One is national security, the other one is economic security. The pre-clearance facility placed in an area where—first of all, I will ask you why there instead of somewhere else, but also when this decision was made was there any input and discussion about the economic security of American airlines? American airlines have to compete with foreign airlines that are subsidized by foreign governments. They undercut U.S. carriers. U.S. carriers make their money on foreign travel. They don't make money on domestic travel.

And it appears on the surface that this will make it more difficult for American airline companies to compete with foreign subsidized companies who will fly directly to the United States, so economic security, national security. The airline industry as you know is very concerned about a pre-clearance facility where they can't even fly into. Why this location instead of somewhere else? And the second question is the economic issue. Was that factored in, in this decision or not? Go ahead.

Mr. MCALEENAN. Thank you. First on the security benefits and why Abu Dhabi. Understand that, as the ranking member noted, currently it is modest travel volume but this is a very strategic location for us from a terrorist travel standpoint. As I mentioned, for the countries that fly into Abu Dhabi, it is a central travel hub for a number of places with active international terrorist organizations. Yemen and the activity of al-Qaeda in the Arabian Peninsula is of significant concern, as we have seen with the Abdulmutallab attack on Christmas Day in '09, the air cargo package plot, underwear attack II, and their continued intent and interest in attacking commercial aviation as stated through their publications and elsewhere. We need to do our best to secure all of the travel routes from that region.

So if you look at the strategy, we are trying to get to all of those locations that are important terrorist travel hubs with significant security programs. We have our targeting capabilities which are global. They give us a lot of pre-departure information and put us in a good position to address risk and threats. But having an actual physical presence at the foreign airport, talking to passengers prior to departure with our Immigration Advisory Program, and better yet with pre-clearance which is essentially the equivalent of a U.S. port of entry, and in Abu Dhabi's context, they would give us our full authorities and protections to operate there, is even better than that.

So we are working to project enhanced security programs through all of these strategic transit points for terrorist travel. We have IP in five out of the top ten locations. We have pre-clearance in one. This is another step in that broader strategy. It is not the only thing we are trying to accomplish or the only location. It is part of the overall strategy that does include Dubai as you both noted. In terms of the economic impact, absolutely we have had in-depth discussions, robust exchanges of views with the air carriers and their representatives, the pilots and their representatives, and

we appreciate their perspective and rely on their partnership in many ways.

That said, the economic picture here is really a broader discussion. We need to facilitate travel to the United States. Each traveler coming, overseas traveler, spends over \$4,000. Every 33 travelers creates a U.S. job. We are struggling to keep up with the pace of international aviation growth, 12 percent over the last 3 years, 4 percent expected over the next five. Our staffing has been flat during that time. So we need to come up with all potential ways to alleviate that congestion in our international gateway airports.

We are transforming our arrivals process. We have submitted a strategy to Congress that includes staffing increases in the administration's '14 budget, and we are working on partnerships like this in Abu Dhabi to try to address this from all angles.

Mr. POE. Excuse me. Let me cut to the chase, or you cut to the chase. Doesn't this put an economic disadvantage to American airlines' companies that we have a facility where you all are working, where American airlines cannot fly in and out? We are helping a subsidized airline to fly their people to the United States. Doesn't this put an economic disadvantage to American airline companies who are already struggling? I mean that is just the question.

Mr. MCALEENAN. I can definitively assert, Mr. Chairman, that if American airlines were prevented from flying in and out of Abu Dhabi we would not establish a pre-clearance location there. We have negotiated guarantees in the pre-clearance agreement that there will be access, equal access, non-discriminatory for American carriers. They will be non-discriminatory in terms of the charging of fees for gate access, et cetera. Absolutely, there is not going to be a U.S. operation where U.S. air carriers are prohibited from flying.

Mr. POE. Well, my time is expired, but do we have that in writing from them?

Mr. MCALEENAN. Yes.

Mr. POE. That they will allow American airline companies to fly in and out of that location?

Mr. MCALEENAN. It is in the pre-clearance agreement, and the Abu Dhabi airport company has invited United and Delta. They met in May toward the pre-clearance facility. They would like them to establish service and are continuing to talk with them. That tells us that they are sincere in their agreement.

Mr. POE. Hear from the ranking member, Mr. Sherman from California, 5 minutes.

Mr. SHERMAN. It may be that Congress should be providing you with more resources to cut the wait times for all inbound tourists. This would not only help us economically, because you point out how important those tourist dollars are, but also when we talk to people who visit the United States, the process of getting here, whether it be getting the visa or going through your operation, does not win friends and influence people for the United States.

I would point out that the cost of this program is not just the 15 percent we are paying. Your officers who live abroad will be paying less in U.S. income taxes. They will be spending their money abroad. So the savings may not be as much as you have determined. I will be interested in looking at that agreement.

It is not enough to say that the fees for gates would not be discriminatory because Etihad is government subsidized. So they could charge Etihad a huge flat fee and then give them money back, and then they could charge the U.S. airlines. So we want to make sure that those fees are reasonable as compared with other airports.

You put forward the idea that this is going to enhance our security. We don't want bad people with weapons on U.S.-bound aircraft. The number one way to prevent that is people go through security at the airport and we check to see if they have weapons or bombs or explosives on them. A second approach is we don't let somebody on if they don't have a visa, and hopefully our visa officers say no to those who pose a national security risk. They may be from a visa-waiver country, but we hope that the citizens of those countries for the most part, don't bear ill will toward us.

But let us say, God forbid, you have got somebody at the airport at Abu Dhabi. They have got weapons somehow in a way, or explosives, that aren't going to be detected. They have got a visa. And so the question is, will the pre-clearance of the planes that go directly to the United States stop them? Assuming they know that there is pre-clearance, and assuming that they would just as soon have as little scrutiny as possible. So let us say this person is at the Abu Dhabi airport with a visa. Couldn't they just buy a ticket to Frankfurt and then buy a ticket from Frankfurt to JFK? And if they chose that as their travel plan wouldn't they—or to Lagos, whatever, if they think Frankfurt is too careful—wouldn't they be able to avoid the pre-screening and get on a plane bound for the United States? Obviously, if they go straight through our pre-screening there at Abu Dhabi that gives you one more chance to catch them. They will know that and they may be—so tell me, what would stop the person that chooses to go to Frankfurt or Lagos from Abu Dhabi?

Mr. MCALEENAN. Our responsibility, Congressman, as antiterrorism and trade facilitation professionals is trying to reduce the overall risk on air travel to the United States to enhance our security, and this is a step forward in doing that. Again it is a very strategic location. A top ten location for terrorist related travel transiting through, and it is a step forward in that process.

Mr. SHERMAN. But you don't have a direct answer. It is not like this person, if they chose to go to Lagos or Frankfurt on their way to the United States would be subjected to that pre-clearance.

Mr. MCALEENAN. That was actually the part that I was getting to. Anything that we can do that diverts and redirects a terrorist operatives preferred travel route, makes it more difficult for them, that reduces risk. That helps us become more effective. And as I noted, we are trying to project enhanced security programs to all of those areas that we think are strategic for terrorist travel.

Mr. SHERMAN. I think the addition to U.S. security is very slight. We are positing the idea that somebody is smart enough to get a visa, and smart enough to have non-detectable weapons or explosives, so an effort that at least reaches that level, you would think, would just go from Abu Dhabi to a third country, avoid the pre-clearance. So I think we have to evaluate this on an economic basis

and I look forward to hearing you answer the questions of my colleagues. Thank you.

Mr. POE. Thank you. The chair recognizes Mr. Cook from California for 5 minutes.

Mr. COOK. Thank you, Mr. Chair. Some of the data that I have suggests that there is a relatively small number of people that come through that airport. And of course it goes back to this question of, if you are going to have a pre-clearance why not do it at an airport where there is a large volume of people coming in instead of an area that is stereotyped as a launch point for terrorists? And I was thinking to myself, I always try and put myself in the—my district, whether it is going to pass the smell test.

The 8th congressional district is going to say, hey, did you hear that Cook is supporting this pre-clearance facility in Abu Dhabi? And they would say, Abu Dhabi? The average person on the street is saying, since when has Abu Dhabi been a focal point of all these flights coming in there? Wouldn't it be smarter to do some of these other airlines or some of these other airports throughout the country? So just the sheer number as compared to other locations, can you address that question please?

Mr. MCALEENAN. Absolutely, Congressman. In terms of why wouldn't we be interested in doing pre-clearance at an airport with a large volume, we absolutely are. We are in Toronto now, and we are very open to doing it in locations in Europe and Asia. The criteria that we are looking at to expand pre-clearance is several fold. One, is there a security benefit? Two, is there a passenger facilitation benefit? That is both in numbers of passengers traveling through that airport, whether there is a U.S. carrier presence, whether there is willingness to grant U.S. law enforcement personnel our proper authorities, and our proper protections in that country. And very importantly, and that is what is present here given the financial situation, is the potential for burden sharing and partnership in reimbursement of our expenses.

So we are looking for opportunities that meet those criteria, and it would be great to have it at a higher volume location. That said, we are in strategic high volume locations with our Immigration Advisory Program, today, at London Heathrow, at Frankfurt, Charles de Gaulle, Tokyo Narita, in 11 locations around the world. So this is another opportunity for us to increase our security prior to departure in a very cost effective manner, and it is not exclusive of larger locations or locations that your district might recognize as passing the smell test as a larger hub.

Mr. POE. The gentleman yields back his time. The chair recognizes the gentleman from California, Mr. Lowenthal, for 5 minutes.

Mr. LOWENTHAL. Thank you, Mr. Chair, and I share some of your concerns about why the impact upon U.S. carriers, and why we are doing this, and some of the issues that were raised by the ranking member and Mr. Cook also about why Abu Dhabi. The question I have is that—and I apologize for coming late, and so you may have answered this already.

In my background and study about this, it said that approximately 80–85 percent of the costs will be paid for by, I guess it is the UAE. What I am wondering is, exactly what will they be paying for and not paying for? And is this a precedent that we want

to go throughout the world that when we set up Customs and Border Protection pre-clearance we want that nation to pay for it? And what relationship will they have to the employees that are there, and who will they be accountable to? And what does it mean when they are paying the freight? And is this what we want to happen throughout the world, and are we going to ask the Canadians and the Caribbean and others to now to pick up the cost also? Is this just in Abu Dhabi?

Mr. MCALEENAN. Thank you, Congressmean. In terms of the reimbursement provisions, they are under existing statutory authority both in Title 8 in the Immigration and Nationality Act and in Title 7, the Agriculture title. Basically they allow us to collect reimbursable services for those aspects of the operation, Immigration and Agriculture. The Customs aspect of our operation is prohibited under the cover statute in Title 19, so that is a separate issue. So it is for the Immigration and Agriculture, the facility, the services, all of the things that are necessary to support our Immigration and Agricultural operations. That is what is reimbursable.

In terms of how it is reimbursable, there is not a direct relationship between our officers that would be deployed and the Abu Dhabi government. This is paid into user fee accounts, very similar to how we receive funds from U.S. carriers, from other foreign carriers, per passenger, and it goes into our overall salary funds for CBP which is a combination of appropriations and user fees. So these officers' jobs are not dependent on Abu Dhabi. It is part of a broader CBP appropriation structure.

Mr. LOWENTHAL. Is this a precedent that will occur with all new pre-clearance facilities, and are we going to ask the existing ones, you mentioned Toronto, to also pick up the same share of costs?

Mr. MCALEENAN. Well, in terms of the precedent, right now we are not in a position to expand pre-clearance without a reimbursable agreement. We don't have the funding available to do that. So in terms of the immediate future, if we were going to be asked to look at other strategic locations we would have to have a cost sharing aspect to that absent specific directions or appropriations from Congress. In terms of asking existing locations, that is probably not feasible. Those are longstanding agreements since 1952 with Canada, for instance. It does provide a value for both the country where the pre-clearance airport facility is as well as for our security and facilitation operation. So I don't think we are in a position to go back to the existing partners.

Mr. LOWENTHAL. Again, I just want to say I still am not convinced. I have concerns that I am willing to look at this, but again I am most concerned about the impact upon the U.S. carriers and also what precedent we are setting. Thank you, and I yield back my time.

Mr. POE. The gentleman yields back. We are in the process of voting on the House floor. There are six votes. We will reconvene immediately after the sixth vote. We do have time for one more member to ask questions. Mr. Perry from Pennsylvania for 5 minutes. To the other members of the subcommittee, we will start back immediately after votes.

Mr. PERRY. Thank you, Mr. Chairman. Mr. McAleenan, when negotiating the reimbursement agreement with Abu Dhabi, did the

U.S. Government's representatives consider the competitive effects on the U.S. airline industry? And can you tell me the level of exploration of other alternatives, whether it would have been like Kuwait or Dubai or something like that, and most importantly someone without a competitive advantage gained from a sovereign-owned foreign airline.

Mr. MCALEENAN. Absolutely, Congressman. Just on the second part of that question first. Did we consider other locations? Absolutely. Engagement with the United Arab Emirates, our interest does not just extend to Abu Dhabi. We were very interested in Dubai. That is also a very strategic location for terrorist travel. It is a larger volume. U.S. carriers serve that. There is a lot of attractive aspects to having a presence there and we are very interested in continuing to pursue that.

In terms of the overall regional effort, DHS and CBP engaged many governments in this region in response to the emerging aviation security threat from al-Qaeda in the Arabian Peninsula over the last several years. There has been ongoing conversations. We have an Immigration Advisory Program now in Doha Qatar as a result of that engagement. We have spoken with the government in Kuwait and others as well on these critical issues. So this is not a solely focused, limited, special focus here.

In terms of negotiating and considering the competitive facts, I would say absolutely because that is why we negotiated the key provisions that provide U.S. carriers access on a non-discriminatory basis and non-discriminatory fees. That was a concern of ours that we wanted to emphasize to make sure they had access. We also considered, as I mentioned in the earlier questioning, the broader economic benefits of increasing our capacity for international travel that we do have important relationships with the UAE in terms of a \$20 billion trade surplus, 1,000 U.S. companies in the Abu Dhabi, 45,000 U.S. citizen jobs affected there, a great defense relationship.

There are many aspects of the economic piece that are not just focused on the concerns expressed by the U.S. carriers that I am cognizant of and concerned about.

Mr. PERRY. Okay. And I just want to make sure, and I appreciate that. I am trying to keep an open mind about this thing. But when we talk about the economics, as the chairman has already stated it is not just the economics for the Federal Government but the economics for American citizens via their employers and the folks that travel in and out and how they get there.

Another question is, I have a question regarding, you talked about the additional security benefit, and I am just trying to figure out what it is. If I am a terrorist and I know you have a pre-clearance facility here and you are kind of using it to vet passengers and make sure that you take a close look at ones that might be bad actors and that we wouldn't want to come to the United States, what would stop me from just going somewhere else? I mean if you are advertising it that way, if I am a terrorist and I have got any brains at all wouldn't I just go somewhere else?

Mr. MCALEENAN. Again, that is the key concept of risk management. We want to constrain their options. We want to shut down different routes and this is a very strategic point from regions of concern. A lot of these flights from source countries for extremist

activity are coming through the Arabian Peninsula. They are coming through the UAE and Abu Dhabi. We would like to close off one of those outlets with our strongest security program that we can project abroad. But we are still engaged in trying to address all of the other locations as well, so it is not an either/or. It is part of a broader approach. As you noted, the security benefits are significant. We get to question the individuals. We get to take biometrics. We have access to our screening systems, examine their luggage. All the sorts of things that prior to departure that we can't do in other places.

Mr. PERRY. Prior to departure, I mean this is still done with each passenger at some point along the trail, right?

Mr. MCALEENAN. Correct.

Mr. PERRY. And so it is going to be done. The question is do you do it prior to, because it would be the United States doing it in a pre-clearance manner as opposed to the host nation, is that what we are talking about here?

Mr. MCALEENAN. Absolutely. And if you look at the last four or five major terrorist attack attempts on aviation, it has not been on flights domestically within the U.S. as in 9/11, due to TSA's efforts, due to our efforts at the border. It has been, the liquid explosives plot was from the U.K. to the U.S., Abdulmutallab was flying from foreign to the U.S., the Underwear Bomber II was going to be the same scenario, as well as the air cargo plot. So we really think we need to project our security to prior to departure area for both passengers and cargo.

Mr. PERRY. So one last question then. If I am an American carrier, don't I want the maximum security on my aircraft not only for the safety of the passengers but for the safety of the aircraft itself? Are the American carriers, they are advocating for this on a security standpoint or not?

Mr. MCALEENAN. I think the American carriers are very open to us implementing these types of security arrangements and they would prefer it at airports that they are flying from, no question. That said, by securing overall global aviation it does help protect the American aviation industry as well. An attack on a foreign carrier flying to the U.S. would also have a devastating impact, as we have seen with each shock of a successful attack or attempt, on commercial aviation.

Mr. PERRY. Thank you, Mr. Chairman. I yield back.

Mr. POE. I thank the gentleman. It is my understanding that none of the other committee members have questions of you, Commissioner. I would ask that you furnish us a copy of the agreement that you mentioned in your testimony, and you are excused. We will start with the second panel immediately after the votes are concluded, which should be about 30 minutes.

[Recess.]

Mr. POE. The committee will come to order.

Nicholas Calio is the president and chief executive officer of Airlines for America, the trade association for the country's leading airlines whose members and affiliates transport more than 90 percent of all U.S. airline passenger and cargo traffic. Prior to joining A4A in January 2011, Mr. Calio was Citigroup's executive vice president for Global Government Affairs after he served President

George W. Bush as assistant to the president for Legislative Affairs from January 2001 and 2003.

Captain Lee Moak is the ninth president of the Air Line Pilots Association, International. Prior to becoming a B767 Delta airlines captain, Captain Moak served 9 years in the United States Marine Corps as a fighter pilot.

Mr. Calio, we will start with your testimony. You have 5 minutes.

**STATEMENT OF MR. NICHOLAS E. CALIO, PRESIDENT AND
CHIEF EXECUTIVE OFFICER, AIRLINES FOR AMERICA**

Mr. CALIO. Thank you, Mr. Chairman.

Chairman Poe, Ranking Member Sherman, we appreciate the opportunity to testify today on behalf of Airlines For America. We also sincerely appreciate this committee taking an interest in this issue. We will make clear that the administration's agreement with the United Arab Emirates to place a U.S. Customs and Border Protection pre-clearance facility in Abu Dhabi is a bad deal for the United States, its economy, its airlines and their passengers, in other words, your constituents.

The long term implications of this agreement and the administration's apparent future plans for other pre-clearance facilities are dramatic and will result in a diminution of services to cities across the United States including many of your communities. What we have here, basically, is the United States Government picking winners and losers in the international aviation business. And the winners are the international competitors of U.S. based airlines.

This is really a tale of two competing airlines, and is a matter that CBP is claiming national security. It is also a matter of economic security, and they play into each other. On the one hand you have the U.S. airline industry which is at an inflection point. Our passenger carriers managed to make a collective profit across the industry 3 years in a row now. Last year that amounted to 37 cents per enplaned passenger. That follows the post-9/11 decade in which we lost over \$55 billion and 160,000 of our employees.

In our reality we operate in a business environment that is hostile at worst and neglectful to what is happening at best. U.S. airlines and our passengers are subjected to a crushing burden of Federal taxes and fees, myriad regulations that have nothing to do with safety, horribly outdated infrastructure, and very stiff foreign competition, which is why A4A and in some fashion as well, ALPA, is advocating for changes on all of these fronts under the framework of a national airline or aviation policy.

As both of you gentleman noted earlier, the international routes that we fly, that U.S. airlines fly, are the most profitable part of our business and subsidize many of our domestic routes. If you impinge on those international routes you impinge on domestic routes eventually. Our success on these international routes is dependent upon our ability to compete with non-U.S. airlines and the ability of CBP to process passengers and cargo coming into the country. Their ability to accomplish this basic task has been in crisis for years. Processing times for entering the U.S. average 1 hour and sometimes 3 hours and more. And we would encourage committee members to try out JFK or Miami or Dallas or some of the other

ports of entry to get a firsthand look at what is actually going on at our borders.

That is the U.S. reality. Our foreign competition's reality is much better. A number of these airlines, like Etihad, are state-owned and state-supported, and are viewed by their government as strategic assets to be used to expand their economies, diversify their economies, and grow jobs. For the UAE this is not a national security issue. It is a commercial play. It is about diverting traffic that otherwise would fly on American metal to their own planes for which they don't have the population to fill.

The Middle Eastern carriers currently have 399 wide-body jets on order. That doesn't count what is already in their fleet. That is more than twice what all U.S. carriers combined have. Their populations do not support that kind of traffic or that kind of capacity. In addition, these governments and their airlines have made clear, publicly, repeatedly, that their goal is to make airports like Abu Dhabi the world hub. They have further made clear that an integral part of the plan, in fact, the indispensable part of the plan is to do this by skimming international passengers from U.S. carriers.

So what we have here, basically, is the United States Government facilitating the business strategy of these foreign governments and their airlines. If they are successful it will be much easier to fly into this country if you fly through Abu Dhabi than it is if you fly directly to JFK, Houston, Miami, Chicago, Dulles, or other points of entry. This accommodation, as noted by Etihad's CEO, will encourage travelers to book their travel through Abu Dhabi to avoid the lines at U.S. airports that can't be processed in timely fashion by Customs and Border Protection. You all know that this agreement contravenes the direction of this Congress in the 2013 consolidated appropriations bill.

Try to conclude very briefly. No matter how you dress it up, it is inappropriate and harmful to the interest of U.S. industry and its passengers to take this action. CBP working in partnership with airlines has already pushed out our borders electronically. Together we take extraordinary measures to vet passengers before they get near the airport, let alone when they are in the airport. There is no indication that there is any shortcoming in these measures. Their own testimony, if you look at it, is a testament to the measures that are taken currently today. And this agreement won't be tax-free. We shouldn't be spending any money whatsoever outside of the United States. What we have consistently said is that you need to fix the problem here first before you fix it, try to do something overseas.

And I would be happy to take any questions and hope to address some of the points that Deputy Commissioner McAleenan made in his testimony. Thank you very much.

[The prepared statement of Mr. Calio follows:]



Testimony

**The Abu Dhabi Preclearance Facility:
Implications for U.S. Businesses and National Security**

Statement of Nicholas E. Calio
President and CEO, Airlines for America (A4A)
before the
Subcommittee on Terrorism, Nonproliferation and Trade
of the
House Committee on Foreign Affairs

Thank you for the opportunity to testify on behalf of Airlines for America (A4A). Our members transport more than 90 percent of all U.S. airline passenger and cargo traffic. Airlines are the physical internet; we connect people, goods, and places together, all to the benefit of the U.S. and global economy and our competitive place in it.

A4A would like to briefly raise six issues that should frame the Committee's and the Congress' thinking and action with respect to the Administration's agreement with the United Arab Emirates (UAE) to place a U.S. Customs and Border Protection (CBP) preclearance facility in Abu Dhabi, a location to which no U.S. airline flies.

- First, some context. The U.S. airline industry drives more than 10 million jobs and \$1.2 trillion in economic activity, which is more than 5 percent of U.S. GDP.

Between September 11, 2001 and 2010, U.S. airlines lost \$55 billion and 160,000 jobs, one-third of our workforce. The industry has turned a small "profit" the last three years, roughly 37 cents per enplaned passenger in 2012, largely resulting from necessary and painful restructuring, and capacity and pricing discipline.

Moreover, the last three years' meager profits have come despite U.S. airline passengers being one of the most highly taxed businesses in the United States. We and our passengers pay more than 17 separate taxes and fees. Those taxes can amount to about 20 percent of the cost of a typical round trip ticket. We are also among the most highly regulated "de-regulated" industries in the United States. The environment in which we do "business" is not conducive to the type of sustained profitability that allows for reinvesting in our customers, employees and equipment.

- Second, the international routes that U.S. airlines fly are the most profitable part of our business and essentially subsidize many of our domestic routes.

Our success on these international routes is dependent on our ability to compete with non-U.S. airlines that, likewise, have international routes which are their most lucrative. We are also dependent on the ability of the U.S. government, through CBP, to facilitate the flow of passengers and cargo in and out of our borders.

- Third, it is common knowledge that CBP's ability to process traffic at our borders has been in crisis for years, and the consequences of the failure are significant for returning U.S. citizens, foreign visitors, the U.S. economy, and A4A's members.

Little progress has been made to better the situation. Entering the United States, either returning home or as a visitor, is highly inefficient with travelers commonly facing delays of one hour and sometimes up to three to four hours.

The U.S. Travel Association (USTA) and Consensus Research group released a survey finding that 43 percent of overseas travelers who have visited the United States said they would advise others to avoid traveling here because of the lengthy entry process. USTA estimated that at least 100 million travelers have received the message to avoid travel to the U.S., costing the economy \$95 billion in total output and more than half a million jobs.

CBP and the Department of Homeland Security (DHS) know these lengthy processing times are a significant economic problem and have been working with A4A for more than two years to make improvements by determining which U.S. ports of entry have the highest traffic levels and need additional staffing. This approach is the right one – putting resources where they are most needed and most beneficial to our citizens and our economy. A4A strongly believes that no U.S. taxpayer dollars should be invested outside the U.S. before we correct the mess at our own ports of entry.

- Fourth, while U.S. airlines operate in a policy environment relative to taxes, regulation, and infrastructure, among other things, that are inhospitable at best, our foreign competition is in a much better position.

These airlines, a number of which are state-owned, such as Etihad in the UAE, are viewed by their governments as strategic assets which can be used to diversify and expand their local economies and employment. These carriers and their governments are quite clear in their intent. Their goal is to make their airports, like Abu Dhabi, THE world-wide hub. An integral part of the plan is to skim the cream – international passengers – from U.S. carriers.

- Fifth, the establishment of a preclearance facility in Abu Dhabi is a competitive game changer that is advantageous to foreign competitors.

It significantly tilts the competitive playing field against U.S. airlines toward a government and a carrier that currently fly few passengers into the United States. No U.S. carrier flies to Abu Dhabi. Granting the UAE a preclearance facility makes it easier to enter our country if you fly through Abu Dhabi than it is if you fly directly into JFK, Houston, Miami, Chicago or Dallas – or any other U.S. city. This accommodation, as acknowledged by Etihad's CEO, will encourage travelers to book their travel connecting through Abu Dhabi to avoid the lines in the U.S. airports. Not only does this take passenger traffic away from U.S. airlines, it also takes the collateral economic benefit derived from those passengers spending money in transit to Abu Dhabi airport.

- Sixth, the Administration's agreement with the UAE directly contravenes Congress' directive that DHS not enter into any CBP reimbursable agreement for any international CBP preclearance facility.

The timeline of decision-making is important relative to congressional prerogatives. In late 2011, DHS announced its intent to pursue a preclearance facility in Abu Dhabi. A4A voiced its objections to such a pay-for-play scheme as selling U.S. security functions to the highest bidder – in this case, a foreign government – as inappropriate, both in its own right, and because CBP is failing to adequately process passengers at major U.S. ports of entry.

A4A, along with the Air Line Pilots Association and others, also voiced our objections to Congress. DHS simultaneously asked Congress that it be permitted to enter into a preclearance agreement with the UAE. The result was that the Consolidated and Further Continuing Appropriations Act of 2013, H.R. 933, refused to authorize the UAE agreement. Instead, it authorized only a very limited reimbursement pilot program at five domestic ports for a limited period of time.

Despite this, the Administration clearly proceeded to negotiate a deal with the UAE. Just weeks before the agreement was announced, the Administration still had not filed the requisite national security justifications with the relevant congressional committees. Meanwhile, construction of the Abu Dhabi facility was underway the entire time and was virtually complete before the announcement was even made.

At a time when U.S. carriers and airports are fighting to maintain our global competitiveness, the U.S. government should not be signing a deal with the UAE that benefits a foreign emirate and its wholly-owned national carrier. This deal clearly puts U.S. airlines and U.S. international hub airports and their employees at a competitive disadvantage, and it will only get worse.

Etihad almost immediately began marketing "preclearance" into the United States. Just nine days after the U.S.-UAE agreement, Etihad announced it was buying a 24 percent stake in Jet (an Indian airline) that will create a substantial hub at Abu Dhabi with flights into Newark and Chicago.

A telling quote appeared a few weeks ago regarding the deployment of the A380, the world's largest airplane, by another Middle Eastern competitor. An aviation analyst stated: "with the USA being at the forefront of Emirates' expansion, it was only ever a matter of time before the A380 was deployed to the highly lucrative city of Los Angeles – indeed, it and at least a dozen other U.S. cities are prime candidates for the future A380 services as **Emirates outflanks its weak and near irrelevant U.S. airline competitors.**"

According to DHS officials, plans exist to open several more preclearance facilities in the Middle East shortly after the planned opening of Abu Dhabi. The U.S. Government is essentially facilitating our foreign competitors' strategy!

To be clear: we are not anti-foreign competition. We are envious of the support from their governments. We understand the strategy of the UAE to make their emirates global hubs of commerce, travel and tourism. The UAE understands what their airlines can do for jobs and the economy. And they treat their airlines accordingly. We would very much like our government to recognize aviation's importance to the national economy and job growth by enacting affirmative policies in taxation, regulation, global competitiveness and infrastructure.

These policies would be included in a National Airline Policy that would enhance the economic viability and global competitiveness of our industry and make flying better for our customers.

There should be no doubt as to the immediate and longer term impact on the U.S. if we continue to create advantage to our international competitors. The combined fleets of sovereignly owned carriers of Middle East governments (Emirates, Etihad and Qatar) have nearly doubled over the past six years, from 195 in 2007 to 387 planes today. They have 399 widebody aircraft on order, which is twice what the combined U.S. passenger carriers have ordered. The relatively small populations of these countries do not support this kind of growth, and their business model, already successful, is to skim the cream off of the aviation revenue, international traffic and connect international travelers over their hubs.

As we stand today, we face off in the market with foreign airlines that compete against us as if they are private companies. But they are not. They are instruments of their government and are intent on capturing market share, regardless of profitability, to accomplish their broader goal of their government shareholders – providing economic growth for the UAE.

The ability of U.S. carriers to compete on a level playing field for these international markets is critical. As noted earlier, our higher yields on international traffic are what enable us to provide subsidized (read, unprofitable) service to small- and medium-size communities that so many Members of Congress want served.

Make no mistake: Etihad will not be providing service to Des Moines, Cleveland or Pittsburgh. And yet, with this facility, our own government is effectively picking winners and losers in the global market.

Even more objectionable is the U.S. plan to foot the bill for these services. DHS officials admit that taxpayers will fund 20 percent of the operation of this facility. This diversion of taxpayer dollars to assist wealthy foreign airlines cannot be justified. DHS must first provide adequate services and staffing at U.S. airports, before establishing facilities overseas. Simply stated: fix it here first.

More than 150 Members of Congress signed onto a letter to Sec. Napolitano asking for an explanation as to why DHS is allowing a foreign government to pay for core security functions. They have yet to receive an answer.

Only you can stop this. We are asking you to enforce the direction the Congress has already given to DHS and put an end to DHS efforts to open facilities in foreign countries and instead commit to work collaboratively with the U.S. airline, airport and travel and tourism industries to resolve lengthy wait times at U.S. airports.

Mr. POE. Thank you, sir.
Captain Moak?

**STATEMENT OF CAPTAIN LEE MOAK, PRESIDENT, AIR LINE
PILOTS ASSOCIATION, INTERNATIONAL**

Mr. MOAK. Mr. Chairman, Ranking Member Sherman, it is an honor to be here today to represent the more than 50,000 pilot members who fly for 33 U.S. and Canadian airlines.

As you know, government policy and regulations can make or break an industry, and this is why ALPA is focused on the harm that a U.S. Customs and Border Protection pre-clearance facility in Abu Dhabi will inflict on the U.S. airline industry and its tens and thousands of employees. Make no mistake, the U.S. airline industry and its workers are driven to compete and prevail against our foreign competitors.

But our industry cannot prevail or even keep pace while hindered by our own Government's actions that make it harder for us to compete. Unless Congress intervenes now, U.S. taxpayers will assist one of U.S. airlines' strongest foreign competitors in the form of a CBP pre-clearance facility. In the Wall Street Journal, the chief executive officer of Etihad, the state-owned, national airline of the UAE, based in Abu Dhabi, recently said of our CBP facility, and I want to quote, "would support Etihad's expansion as an international carrier and boost Abu Dhabi, the largest and richest of the seven emirates in the UAE, as a global aviation hub."

Before I get into why we oppose the site, let us look at the big picture for U.S. airlines. The U.S. airline industry is the most heavily taxed of all U.S. industries, and passenger protection regulations place another financial burden on our airlines. At the same time, the U.S. airline industry is competing with foreign airlines that are often state-owned or heavily state-sponsored and do business with huge advantages such as a tax-free local environment and a beneficial regulatory policy. In addition, those foreign airlines have virtually unlimited access to the U.S. markets through Open Skies agreements.

The explosive expansion of these state-sponsored airlines threatens U.S. airlines particularly on international routes as you noted earlier. In addition to benefiting from pro-aviation growth policies at home, these carriers can buy new American manufactured airplanes at below market financing rates subsidized by U.S. taxpayers. They then use these airplanes to compete against U.S. carriers on international routes. Here is just one illustration of the threat. The value of the aircraft currently on order by Emirate's state-owned, state-sponsored airline is \$84 billion. An amount that exceeds the market value of the entire U.S. airline industry.

While ALPA supports enhancing the airline customer experience through CBP pre-clearance facilities, among other solutions, our union backs doing so only where the use of U.S. resources benefit our economy and our workers. Abu Dhabi does not pass the test. CBP facilities allow U.S. bound passengers to clear U.S. Customs while in a foreign location, permitting them to go directly to their domestic flight or final destination once they land, a convenience that is a powerful marketing advantage.

ALPA supports the 15 current U.S. CBP sites which are located at foreign airports where U.S. airlines provide a considerable amount of the air service. At least one U.S. airline served each of these airports before there ever was a CBP facility there. The pre-clearance site planned at Abu Dhabi presents a stark contrast because no U.S. carrier currently flies between Abu Dhabi and the United States. So only Etihad, state-sponsored, state-owned airline, would benefit. Passengers from Asia or Europe could opt to fly Etihad and connect through Abu Dhabi instead of booking on U.S. airlines because they would avoid long customer lines at U.S. airports. As a result, demand for seats would decline on certain routes and force airlines to reduce or eliminate service. This scenario would cost U.S. jobs and threaten the U.S. aviation industry, which as you know contributes to 5 percent of the GDP.

I will end quickly here if you don't mind. Long custom lines at U.S. airports are already hurting our airlines. ALPA commends the House for its action to prohibit the funding of the Abu Dhabi facility, and we supported the Meehan Amendment to the House Homeland Security appropriation bill that prohibits funding using taxpayer dollars. While ALPA currently supports DHS efforts to identify national security threats, opportunities exist to enhance this security without giving an unfair advantage to foreign airlines.

ALPA calls for and Congress should force DHS to abandon plans to open this pre-clearance facility. Congress should pass strong legislation to prevent DHS from using U.S. taxpayer money to provide an advantage to non-U.S. airlines. The United States should appropriately staff our domestic customs and immigration operations to reduce these passenger wait times at all our international airports, and the United States should adopt a transportation policy that advances the U.S. airline industry in the same way that these foreign governments' state-sponsored, foreign-owned companies have been doing.

The U.S. airlines and their employees are determined to compete. We are not begging for subsidies. We are determined to compete in the international marketplace. But we need a level playing field. So putting a permanent halt to this Abu Dhabi facility is a critical step in that direction. Thank you.

[The prepared statement of Mr. Moak follows:]

Statement of
Captain Lee Moak, President
Air Line Pilots Association, International
Before the
Subcommittee on Terrorism, Nonproliferation & Trade
Foreign Affairs Committee
U.S. House of Representatives
Washington, DC
July 10, 2013

“The Abu Dhabi Pre-Clearance Facility: Implications for
U.S. Businesses and National Security”

Air Line Pilots Association, International
1625 Massachusetts Avenue, NW
Washington, DC 20036
(202) 797-4033

Statement of
 Captain Lee Moak, President
 Air Line Pilots Association, International
 Before the
 Subcommittee on Terrorism, Nonproliferation & Trade
 Foreign Affairs Committee
 U.S. House of Representatives
 On
 “The Abu Dhabi Pre-Clearance Facility: Implications for
 U.S. Businesses and National Security”
 July 10, 2013

Mr. Chairman, Ranking Member Sherman and members of the Subcommittee, I am Captain Lee Moak, President of the Air Lines Pilots Association, International (ALPA). It is a pleasure and an honor for me to be here today to testify on behalf of more than 50,000 pilot members who fly for 33 airlines in the U.S. and Canada. ALPA is the largest pilots’ union in the world and we also operate the largest non-governmental aviation safety and security organization in the world.

We greatly appreciate this hearing and Congress’ interest in the subject of the Abu Dhabi preclearance facility for which the Department of Homeland Security has signed an agreement with the United Arab Emirates. ALPA and numerous other organizations, including Airlines for America, have strongly protested the Administration’s decision for reasons that I will explain. We believe that it is essential that the government not provide unfair and unjustifiable advantages—as this preclearance facility would do—to foreign airlines which directly compete with U.S. airlines.

Government Policy

Government policies and regulations can help make or break an industry, which is why ALPA is so focused on the potential harm that this facility can do to the U.S. airlines, and more broadly, the U.S. aviation industry and its employees.

Without strong, decisive action, current policy could mean the end of the U.S. airline industry’s envied leadership position in the world. Consider, for purposes of comparison, what has happened to the U.S. maritime industry over the past several decades. According to a report prepared for the U.S. Maritime Administration,¹ in 1975

¹ “An Evaluation of Maritime Policy in Meeting the Commercial and Security Needs of the United States,” Prepared by IHS Global Insight, Inc. for the US DOT Maritime Administration, January 7, 2009

the U.S.-flag fleet included 857 oceangoing ships with a capacity of 17.7 million deadweight tons. By December 2007, the oceangoing fleet had shrunk to only 89 ships operating in the U.S. foreign trades and 100 ships in domestic transport totaling 8.6 million deadweight tons, more than 50 percent loss of capacity. An important component of the shipping industry is ship building. In 1975, there were 166,900 people employed in the U.S. shipbuilding industry. By 2006, that number had dropped to 85,300. The report notes numerous factors in the sharp decline of the U.S. shipping industry, including excessive taxation and regulation, but the following quote from the executive summary captures the overarching cause:

The findings of this report lead to the overall conclusion that the current body of [government] policies is only supportive of domestic maritime trades. Policy is not supportive of U.S. participation in international trades. The U.S.-flag oceangoing fleet has been in decline relative to the fleets of other maritime nations. Building ships in the U.S. and operating U.S.-flag ships is more costly than building or operating ships in other nations.

It is our belief that the U.S. airline industry is in danger of the same type of drastic loss of capacity that the shipping industry has already experienced, and for the same basic reasons, unless this administration and Congress takes decisive action—like many of its foreign government counterparts have done for their aviation industries—to protect it from the effects of a tilted international playing field. Our airline industry competes very well in a head-to-head situation with its foreign competitors when those competitors are not underwritten financially by their governments and given advantages that our U.S. carriers do not receive from our government. But regardless of how well we can compete, our industry cannot keep pace or beat foreign airlines while carrying on its back a huge burden that most foreign competitors do not have – one of excessive government taxes, fees, regulations and now, U.S. taxpayer assistance to a foreign airline in the form of a CBP preclearance facility in Abu Dhabi.

Leveling the Airline Playing Field

ALPA has recently published a white paper entitled “Leveling the Playing Field for U.S. Airlines and their Employees,” which I am providing as an attachment to this statement; I would request that it be included as part of our testimony. This document explains that the U.S. airline industry and its employees operate in a hyper-competitive international marketplace. In large measure due to excessive regulations, taxes and fees, compounded by the effects of 9/11, the industry has lost \$48.1 billion since 2000 and it has made a profit in only five of the last 12 years. Even in the best of times, the U.S. airline industry has managed to eke out very small profit margins and has been unable

to meet its capital costs. Much of this is due to the lack of a U.S. government transportation policy that supports aviation. Our industry, which is owned and operated by publicly held corporations, competes with vertically integrated foreign airlines that are often state-owned or heavily state-sponsored and are given significant advantages in the form of non-existent taxation, and a very low regulatory burden. In addition, with virtually unlimited access to the U.S. market through Open Skies agreements that the U.S. has signed with more than 100 other nations, foreign airlines are stealing market share from our companies and threatening their very existence.

Around the world, the expansion of state-sponsored airlines, many from the Gulf region and Asia, threaten U.S. carriers on international routes. These carriers have the ability to buy new, American-manufactured airplanes with below-market financing rates subsidized by U.S. taxpayers, then use those same airplanes to compete against U.S. carriers on international routes, with significantly lower capital costs. As just one example of the threat posed by certain foreign carriers, Emirates, the wholly owned airline of the government of Dubai, began operations in 1985 with two aircraft. According to the airline, it has in the meantime grown into a "globally influential travel and tourism conglomerate" with hundreds of aircraft. It is shocking, but true, that the value of the aircraft currently on order by Emirates, \$84 billion, exceeds the market value of the entire U.S. airline industry.

The airline industry is the most heavily taxed of *all* industries in America with 17 unique federal taxes and fees which results in 20 percent or more of the total airline ticket price going to government coffers. The government's tendency to emphasize consumer interests over the financial viability of the industry has resulted in a series of passenger protection regulations that place a significant financial burden on U.S. airlines, which exacerbate the cost disadvantages that U.S. carriers face in the international marketplace.

Our white paper identifies, and offers solutions to, numerous other "tilted playing field" issues including:

- foreign ownership and cabotage restrictions
- Open Skies agreements
- wide-body aviation financing by the Export-Import Bank for foreign airlines
- taxation policy
- fuel price stability
- new entrant and certificate transfer requirements for start-up airlines
- foreign tourist visa issuance
- NextGEN investments to improve safety and efficiencies

- international safety and security requirements

Most pertinently for the purposes of this hearing, the paper recommends enhancing the airline customer experience at airports. One way in which this is done is through Customs and Border Protection (CBP) preclearance facilities at 15 foreign locations in five countries (i.e., Aruba, Bermuda, the Bahamas, Canada, and Ireland) that allow U.S.-bound passengers to obtain advance approval from U.S. CBP to enter the United States from established locations in airports outside the country. The facilities at these locations help the U.S. airlines that operate into and out of these locations by allowing passengers to be authorized admittance to the U.S. before leaving the foreign country, thereby eliminating the need to go through a lengthy customs process at their U.S. destination. The current 15 sites are strategically located at airports where U.S. carriers provide a considerable amount (e.g., Dublin and Montreal) or all (e.g., Bermuda) of the air service. This stands in stark contrast to the Abu Dhabi airport, which has no U.S. airline service to the U.S. whatsoever. While advocates of the Abu Dhabi facility have stated that U.S. airlines began serving some of these 15 sites after the establishment of their respective preclearance facilities, this is not true. At least one or more U.S. airlines served each of the 15 locations prior to the establishment of the preclearance facility.

The Abu Dhabi Preclearance Facility

As this Subcommittee knows very well, in April of this year, the U.S. signed an agreement to establish a CBP preclearance facility at Abu Dhabi International Airport in direct contradiction of Congress' opposition as set forth in the Consolidated and Further Continuing Appropriations Act of 2013 (P.L. 113-6, Section 560(f)). ALPA and numerous other industry stakeholders including the Chamber of Commerce, Airlines for America, Regional Airline Association, AFL-CIO's Transportation Trades Department (TTD), Global Business Travelers Alliance, Consumer Travelers Alliance, Airports Council International-North America, and the Association of European Airlines have expressed adamant opposition to the establishment of this facility. ALPA's reasons for opposing it include the following:

- As stated previously, no U.S. carrier currently flies between Abu Dhabi and the United States. The only carrier with such service is Etihad Airways, the state-owned national airline of the UAE. Therefore, a preclearance site in Abu Dhabi would benefit only Etihad, which is already benefitting from numerous advantages over U.S. airlines, such as freedom from local taxes, the absence of transparency requirements with respect to corporate finances, and the ability to purchase wide-body aircraft from Boeing and Airbus at reduced rates through export credit agencies.

- Passengers from Asia or Europe, in order to avoid long wait times in customs and immigration lines, could opt to fly Etihad and connect through Abu Dhabi instead of booking on U.S. airlines. As passengers book away from U.S. carriers, reduced demand could force those airlines to reduce or eliminate service.
- Establishment of a preclearance site at Abu Dhabi would facilitate travel on foreign operators with direct access to international airports here in the U.S., as well as indirect access to historically domestic markets in the U.S. For example, a passenger traveling to Reagan Washington National airport from the UAE could clear U.S. customs in Abu Dhabi before departure, fly on Etihad to the U.S., then quickly connect to a flight to DCA. This situation presents a very clear and distinct marketing advantage for Etihad.
- The preclearance site in the UAE is a significant departure from the current paradigm and would put U.S. air carriers and U.S. airline worker jobs at risk by exclusively advantaging a foreign airline competitor. In ALPA's view, CBP facilities and funding should be used to benefit U.S. travelers, airlines and their employees, not foreign countries and their state-owned airlines. To the best of our knowledge, there has been no determination by the government as to whether or how the U.S. airlines will benefit from this facility, nor of how many passengers will ultimately reduce their wait times by flying from Abu Dhabi on Etihad instead of from European airports (e.g., London Heathrow or Frankfurt) on U.S. carriers to the U.S. We encourage DHS to address these questions.
- Long customs lines at airports are hurting U.S. airlines and the travel industry *today*. According to a recently published article: "The situation has grown so out of control that recently, in Miami, authorities were forced to place dozens of cots in a large room at the airport so that arriving international passengers who missed their connecting flights could get a night's sleep before boarding later flights the next morning. At the same airport, officials were forced to erect refreshment stands in the immigration areas so that people could get a cup of coffee or a doughnut to tide them over while waiting for hours to be cleared by customs and immigration officials." Congress should help ensure that CBP focuses its resources on providing the staffing that is needed to create a more favorable passenger experience at our nation's international airports.
- The U.S. government should not pick winners and losers and provide financial assistance to a country that does not need it. CBP estimates that roughly 15% of the cost of the Abu Dhabi preclearance facility would be funded by U.S. taxpayers and the rest of the costs would be borne by the UAE government. It was recently noted in a national newspaper that the facility would "support Etihad's expansion as an international carrier and boost Abu Dhabi, the largest and richest of seven emirates in the U.A.E., as a global aviation hub."

- DHS claims that the preclearance program is “invaluable to DHS with its ability to identify terrorists, criminals and other national security threats.” While there may well be some security value to the preclearance program, it is certainly possible to improve our security without giving an unfair operating advantage and U.S. taxpayer-funding to a rich foreign government and its wholly owned airline. The DHS could, for example, lend its risk-based security expertise to UAE to enable that country to perform greater security scrutiny of U.S.-bound passengers within the framework of that country’s own passenger screening measures, not customs and immigration.
- The Abu Dhabi preclearance facility represents a waste of U.S. resources. There are currently three planned daily flights from Abu Dhabi to the U.S. carrying approximately 900 passengers and crewmembers in total. Based on one CBP officer clearing 45 passengers per hour, five officers can clear 900 passengers in four hours, which wastes four available hours of an eight-hour shift. With these same resources, 1,800 passengers could be cleared in a U.S. port of entry in the same eight-hour shift.

For these reasons, ALPA greatly appreciates the House of Representatives’ moves to prohibit funding for the Abu Dhabi facility. ALPA strongly supported the Meehan Amendment to the House Homeland Security Appropriations bill, which passed by voice vote, that would prohibit funding for a U.S. Customs and Border Protection (CBP) preclearance facility at the Abu Dhabi International Airport in the United Arab Emirates (UAE).

Recommendations

1. DHS should abandon any plans to open a preclearance facility in the UAE, or any country where U.S. carriers do not do at least a majority of the flying.
2. Congress should pass strong legislation that will prevent DHS from using U.S. taxpayer money to provide a benefit to non-U.S. airlines and thereby hurt U.S. airlines and their employees. It should also prohibit DHS from accepting independent funding of preclearance facilities from any third parties, including cities, countries, and carriers.
3. The U.S. should prioritize adequate resources to fully and appropriately staff domestic customs and immigration operations to reduce passenger wait times at all international airports to a reasonable maximum (e.g., 30 minutes). DHS

should improve its services and staffing at U.S. airports instead of spreading its resources to foreign countries not served by a U.S. airline.

4. The U.S. should adopt a formal transportation policy that supports our U.S. aviation industry and places it in a position to compete with every foreign airline in the world. The formation of that formal policy needs to start with a complete review and reform of the tax and fee structure as applied to U.S. airlines.

Conclusion

The United States' airline industry's extreme financial volatility, numerous bankruptcies and airline shutdowns, extensive employee pay concessions, pension terminations, job losses, and eroding infrastructure require that immediate and aggressive action be taken to change course and establish a roadmap for future industry and employee success. Given the strong competitive cost advantages of many foreign carriers, it is important that the U.S. government promote a business environment at home that allows a fair opportunity for U.S. carriers to compete and prevail in the international marketplace. U.S. airlines and their employees can win in the international arena. But to do so, they need to compete on a level playing field. Our aforementioned white paper on this subject offers a roadmap for getting there.

Thank you, again, for the opportunity to testify today. I will be happy to respond to any questions that you may have.

Attachment

Mr. POE. Thank you both, and thank you once again for waiting until the votes took place.

One thing that is striking is that the United States airline industry has to compete with, really, foreign governments who also have an airline and they subsidize that airline. And there are various countries that do that, not just in the airline industry but in the airline manufacturing business whether it is Airbus versus Boeing. We have been told that this is really not as big of a concern as we are trying to make it out to be. That those folks in Abu Dhabi said that American airlines can fly in there. They just don't. Any comments on that?

Mr. CALIO. Yes. Thank you, Mr. Chairman. We don't because it is not commercially viable. There is less than 1,000 passengers a day that go through that airport. We have investments already made in other hubs—Frankfurt, Amsterdam, Paris—where we have planes go through now and our passengers traverse. There is a reason for that. We have been there historically. We have made huge investments there, and we have to make huge investments to get slots engaged in Abu Dhabi.

Mr. POE. Captain Moak?

Mr. MOAK. I would like to go back to a statement that you made just a minute before that. You are right. It is one thing to have to compete, and we are not winning in this industry as Americans, but it is one thing to compete with foreign airlines subsidized by their governments. But it is an entirely different matter that not only do we compete with that but we have to compete with our own Government subsidizing those foreign airlines. We shouldn't have to compete with that. We shouldn't have to compete with our Government subsidizing this pre-clearance facility or subsidizing other things that give them a competitive advantage.

Mr. POE. Has there been an analysis made as to how this will financially affect the airline industry in the United States both money-wise and job-wise? Has there been an analysis, give us an investment? The effect. What is going to happen?

Mr. CALIO. We are working on one. Experience suggests, however, that there will be an impact and it will be a relatively severe impact over time if their business strategy works. There are a lot of people who believe that the business strategy is working already because we are not competing with a commercial enterprise and we are commercial enterprises. In the last 10 years U.S. airlines have lost 24 percent of their market. I may have referenced that before. That trend is continuing, the international market that is. And as you noted earlier, Judge Poe, it is those profits that we use to subsidize our domestic routes. So it is something that we are monitoring very carefully, but if they are successful in their marketing effort to take business that normally would come from India, and they have already bought a 24 percent stake in Jet, out of India, which will make it a major hub for Indian traffic, then it is India, China, Asia that are the growing ridership that we are concerned about.

Mr. POE. Did you want to weigh in? I know you want to weigh in on it, Captain Moak.

Mr. MOAK. Yes, sir, just quickly. The previous guest that you had who testified at the panel, perhaps the Homeland Security said

they did an economic study. They took that into consideration. Possibly we could ask them to share it, and perhaps we would see that there is not much to that study, and maybe they need to focus back on security and not the economics. Now we are happy we have a financial and economic analysis department that is well regarded, and like Mr. Calio said, our experience has been that this has a negative impact on our airlines and it will have a negative impact on our jobs. But we are happy to model that and get that to your committee.

Mr. POE. Committee would appreciate the financial and security analysis, both of those if you have them done. As far as you know, was the airline industry consulted before this pre-clearance facility decision was made?

Mr. CALIO. It depends on how expansive your view of consult was.

Mr. POE. I don't mean they asked a flight attendant that is in an airplane as it is flying somewhere. I don't mean that as asking the airline. But was the airline industry consulted to your knowledge about this decision?

Mr. CALIO. No. We were told in 2011, late 2011 that they wanted to place this facility in Abu Dhabi. We and ALPA and others objected to the placement of that facility. We continue to do so. There wasn't very much transparency here, and then just before the announcement was made they came to visit us to tell us that they were going to make the announcement that they were close to an agreement. At that meeting in my office, DHS and CBP personnel including Mr. McAleenan indicated to us that actually the facility, construction of the facility was virtually complete, which means for that entire period of time they were going forward as if the agreement was a done deal.

I would be candid to say that we feel like we did a lot of talking. We feel like we were talked to but not listened to. And as part of that, at the end of Mr. McAleenan's testimony, Deputy Commissioner McAleenan's testimony, he said that we, the airlines, were open as far as he knew to facilities in other places. We have consistently said from the beginning both orally and in writing, that we are not open to facilities being opened outside of the United States until we fix the problem at our borders which is costing us hundreds of millions of jobs and billions of dollars a year according to a study by the U.S. Travel Association.

Mr. POE. Are you talking about the time limit, the time wait getting into the United States?

Mr. CALIO. Yes, sir. It is driving travelers away.

Mr. POE. One last question and then I will turn it over to the ranking member. One of you alluded to the percentage of business American airline companies do internationally compared to foreign airlines. So how much of the international business is done by American carriers and what did it used to be? Give me something that we can understand.

Mr. CALIO. Can we get back to you on that because I don't have the figures off the top of my head.

Mr. POE. Captain Moak, do you have any idea?

Mr. MOAK. In general. In general, major full-service, international connect carriers do 50 percent of the flying internationally.

There was a time we did much more than that because for the same reasons the Chicago Convention was held in this country, same reasons they speak English when they fly, the U.S. was the leader in the airline industry. That has continued to decay over the decades due in large part by government policy. And that is why we are here, because everything matters. And this pre-clearance facility matters because it gives an advantage to a foreign government.

Mr. POE. The chair recognizes the ranking member, Mr. Sherman.

Mr. SHERMAN. Thank you. Captain Moak, you said you support the 15 facilities we have now because they are all served by U.S. carriers. Mr. Calio said he opposes anymore. Are you in support of new facilities if they meet the standards of the existing 15 facilities or do you just draw the line at the 15?

Mr. MOAK. No. Let me be real clear here because—and I think we are in line on this. The 15 facilities that are in place along the Canadian border, Bermuda, and Ireland because of our rich heritage there, and down in the Carribean were all there to facilitate Americans traveling to and from those countries. Now if you look at what they are proposing in the Middle East, it is not for Americans and it is definitely not for Emirates because there is not that many Emirates. It is really a competitive thing.

Mr. SHERMAN. Well, what I am asking you is would you support something in Frankfurt? Would you support something in London?

Mr. MOAK. I would like to be able to have a discussion on any of those issues as long as we are staffing our facilities in the U.S. appropriately first.

Mr. SHERMAN. Okay. That brings up kind of the next issue, and that is, if this country cared about its economy, cared about our trade deficit, we would be doing everything possible to get foreign tourists. Your two organizations would be supporting our Israel Visa Waiver bill and we look forward to getting that support from you. We would be staffing Customs and Border Protection adequately so that is was a convenient place to visit, and we would do that either with user fees on the tourist or we would do it with taxpayer money. Instead, other countries are spending a fortune trying to get us to visit their countries, and between the visa process and the border protection process it is hard to say we are really welcoming foreign tourists. And I hope that you folks will be back talking about adequate funding so that we are not talking about the 3 hours that the chairman mentioned.

The only reason that Abu Dhabi views this as an advantage is because we have ridiculous waiting times at our airports. If it was smooth at JFK who would care that it was also smooth at Abu Dhabi? I sympathize with you having to compete against subsidized airlines and hope that we have some way to either subsidize those who must compete with the subsidized or tax those that are—but it is certainly an unfair trade practice for Abu Dhabi to subsidize its airline especially if that can be documented.

You put forward the idea that Abu Dhabi would be a world hub. I think that is pretty impossible. That is to say, I don't think anybody is going to fly from Germany to Abu Dhabi so they can get on a plane and fly back over Germany in order to reach the East

Coast of the United States. But it can very well be a regional hub for the Middle East and Central and South Asia on flights to the United States. The administration——

Mr. MOAK. Sir, could I comment on that?

Mr. SHERMAN. Yes.

Mr. MOAK. Yes, sir. All you have to do is look about 80 kilometers up the road at Dubai and what you have there is exactly what you are saying that wouldn't happen in Abu Dhabi. The Dubai airport is exactly that, a world hub. It is having an——

Mr. SHERMAN. Does anybody fly from Paris to Dubai for the purpose of then getting on a plane and flying over Europe and reaching the United States?

Mr. MOAK. No, but if you reverse the traffic flow and think about it in this way, there are hardly any human beings that live in that part of the Emirates——

Mr. SHERMAN. Right. So is it really a hub for the billions of people who live in South Asia, Central Asia and the eastern Middle East?

Mr. MOAK. That is exactly——

Mr. SHERMAN. It would not be a hub for South Americans, the Europeans, et cetera.

Mr. MOAK. But what my point was, 1 billion people in India, instead of flying on U.S. carriers via Frankfurt, via Paris or what not——

Mr. SHERMAN. I think we are just arguing about the difference between regional and world hub. To me a regional hub serves the region of South-Central Asia and eastern Middle East. If you want to call that a world hub you can do so when you are speaking. The argument is though that if we can get more officers paid for by Abu Dhabi that would mean faster processing times at JFK and elsewhere. Will that lead to more tourists coming to the United States because the waiting time at JFK will be 5 minutes less because everybody arriving on Etihad Airlines will have been pre-cleared? Are we focusing just on the Middle East traffic and ignoring the opportunity to enhance the visitor experience for Europeans?

Mr. CALIO. You are not ignoring it. The notion that this is going to alleviate traffic into JFK simply is incredible. Last year Abu Dhabi was the 80th on the list of passengers——

Mr. SHERMAN. I am not talking about a minute or two. If you take 2 percent of the traffic off the 405 freeway it moves much better. The question here is, does this diminish waiting times by a minute or two at JFK, O'Hare or elsewhere?

Mr. CALIO. I don't think it does. Because last year you had 573 passengers on average a day, half of whom were U.S. citizens coming into the United States from Abu Dhabi. JFK has 35,000 people go in. O'Hare has 15,000, Dulles 10,000.

Mr. SHERMAN. I mean you are saying on the one hand this is going to be enormously big, on the other hand it is going to be quite small in its impact. What do we do to get more CBP officers so that we are not arguing here about——most of our discussion here is how do we make sure that every single person visiting the United States has a 3-hour delay and some don't get through with a ½-hour delay by flying Etihad Airlines. What do we do to get a ½-hour delay at most for everybody? Captain Moak?

Mr. MOAK. Yes, sir. I did want to point out that we support you on the visa issues. In fact, we have been leading on those issues and I hope we get invited back to help you on that because we believe in that. That enhances the economics of the U.S. and the airline industry. One point that gets missed a little bit about a pre-clearance facility, which really goes to your question, this facility allows them to fly from there, they are talking about current flights but it allows them to fly from that position, that point, to anyplace in the United States, direct, whether there is a customs facility at that place or not.

Mr. SHERMAN. Do you really think Etihad is going to fly into Van Nuys? I mean for the most part these major carriers are going to fly into major U.S. cities. I mean I don't think you are going to have direct non-stop service.

Mr. MOAK. If you had to make money that would be a great case to make, but currently that is not. They have a long view of their aviation. And their long term view is to make it so foreign carriers can't compete with them.

Mr. SHERMAN. So they would fly in not only to the 30 or 40 biggest airports in the United States, but then having direct service to all the top 40 cities where we have CBP offices they would say, let us fly to Wichita too? Non-stop flights from Abu Dhabi to Wichita filled with passengers who want to go to Wichita and don't want to go to JFK?

Mr. MOAK. One example would be when a foreign carrier flies into JFK and there is a weather divert and they have to divert up to, for example, Hartford, which has been a discussion before.

Mr. SHERMAN. Right.

Mr. MOAK. Hartford doesn't have the facilities there that are staffed. If you were pre-cleared already by Etihad you wouldn't have any of those problems. Although in irregular operation one-off it is a significant competitive advantage to not have to go through our facilities.

Mr. SHERMAN. Well, I mean I don't think anybody is going to buy a ticket on Etihad to JFK because they say, god, if I get diverted to Hartford it is going to be a smoother experience. They are planning to land at JFK and they are trying to avoid—

Mr. MOAK. The point is, by definition they are avoiding the facilities in JFK or anyplace they go.

Mr. SHERMAN. People who buy this ticket are buying it so that they can get a ½-hour delay in Abu Dhabi instead of up to a 2- or 3-hour delay at a U.S. airport. They are going to be flying into a major U.S. city. Nobody buys a ticket, say, god, I hope I get diverted to Hartford.

Mr. MOAK. No, but it was a point I was trying to illustrate.

Mr. SHERMAN. Folks leaving Abu Dhabi are trying to go to major U.S. cities where we give them much too long of a delay. If we had 30-minute average delays at all our major airports, Abu Dhabi wouldn't be spending this money and you wouldn't be protesting it because it would be smooth for everybody arriving here.

Mr. MOAK. And you could make the same point that the Emirates have 122 Boeing 777s, the largest fleet in the world, and they have 90 A380s, the largest fleet in the world, and if they had finan-

cial transparency, had to compete as a normal airline we wouldn't be having this conversation either.

Mr. SHERMAN. The big problem is the subsidy. We are here talking about saving an hour or two of hassle for three planes a day which is a tiny part of the giant problem, which is major subsidies particularly in the Gulf and major delays at U.S. airports, which are not only bad for your industry but bad for the much bigger piece of the pie which is the tourist dollars that are spent once they are here. You are the tip of the iceberg. We need those tourists here. We need them spending money. And we discourage them in so many ways. And these delays are just—speaking of delay I have delayed the chairman by way too many minutes by going over time. I yield back.

Mr. CALIO. Could I possibly just make one point in reference to how you would get more officers?

Mr. SHERMAN. No, you can't.

Mr. POE. Yes, you can, Mr. Calio.

Mr. CALIO. I didn't mean to cause an argument between you. Airlines passengers coming into this country pay fairly high fees to get here. Not all those fees go for Border Patrol agents at airports. They go to other border locations. And if this committee were to do an analysis, and we would be happy to do it for you, and looked at land borders, rail, cars, people walking across the border, there is no fee whatsoever for most of them. So they don't contribute to the system but they are taking up the bulk of the personnel, the bulk of the CBP assets. And a slight change in that could create a better situation at the airports right off the bat.

Mr. POE. That is a good point. We will let you do that analysis. Do you have a follow-up question?

Mr. SHERMAN. You are saying your analysis will show that not only are tax dollars fully funding those land entry points because there is no user fee, but that the user fee paid by air transportation pays not only in full for all these CBP assets at airports, but also contributes to the Tijuana crossing?

Mr. CALIO. No, it does not cover the entire cost.

Mr. SHERMAN. Okay. So it is not like the air passengers are paying more than 100 percent of the air transportation costs and are subsidizing the land—

Mr. CALIO. They are paying a certain amount of their costs, some of which is then used to subsidize the other points of entry, or the non-air points of entry.

Mr. SHERMAN. So you are saying they are not fully paying the costs of air points of entry but they are subsidizing the land points?

Mr. CALIO. Yes, sir.

Mr. SHERMAN. I look forward to reading your study.

Mr. POE. Well, I am terribly confused on that issue. The fees charged at airports that are used for CBP, are some of those fees then not used at airports but used at other places like rail and the Tijuana crossing as the ranking member mentioned?

Mr. CALIO. Yes, they are placing personnel there at a disproportionate—it is a misallocation of resources. All of what the airline passengers pay should be used for personnel to cover air points of entry. That simple.

Mr. POE. All right. I want to thank you. Do you have another question?

Mr. SHERMAN. I would request that our subcommittee ask CBP to give us an analysis. How much do they collect at airports——

Mr. POE. Excellent.

Mr. SHERMAN [continuing]. And how much do they spend at airports.

Mr. POE. We will take your analysis and we will get one from the CBP as well. Thank you for volunteering to do that. Appreciate both of you being here and thanks again for waiting until the vote break. Thanks for your testimony.

[Whereupon, at 3:48 p.m., the subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Subcommittee on Terrorism, Nonproliferation, and Trade
Ted Poe (R-TX), Chairman

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Subcommittee on Terrorism, Nonproliferation, and Trade, to be held in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at www.foreignaffairs.house.gov):

DATE: Wednesday, July 10, 2013

TIME: 1:30 p.m.

SUBJECT: The Abu Dhabi Pre-Clearance Facility: Implications for U.S. Businesses and National Security

WITNESSES: Panel I
Mr. Kevin K. McAleenan
Acting Deputy Commissioner
U.S. Customs and Border Protection
U.S. Department of Homeland Security

Panel II
Mr. Nicholas E. Calio
President and Chief Executive Officer
Airlines for America

Captain Lee Moak
President
Air Line Pilots Association, International

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON Terrorism, Nonproliferation, and Trade HEARINGDay Wednesday Date 07/10/13 Room 2172Starting Time 1:32 Ending Time 3:48Recesses 1 (2:13 to 3:13) (to) (to) (to) (to) (to)

Presiding Member(s)

Chairman Poe

Check all of the following that apply:

Open Session ☒Executive (closed) Session ☐Televised ☒Electronically Recorded (taped) ☒Stenographic Record ☒

TITLE OF HEARING:

The Abu Dhabi Pre-Clearance Facility: Implications for U.S. Businesses and National Security

SUBCOMMITTEE MEMBERS PRESENT:

Reps. Poe, Sherman, Perry, Yoho, Cook, Wilson, and Lowenthal

NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an * if they are not members of full committee.)


HEARING WITNESSES: Same as meeting notice attached? Yes ☒ No ☐
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

Lowenthal SFR

TIME SCHEDULED TO RECONVENE _____

or

TIME ADJOURNED 3:48
Subcommittee Staff Director

The Honorable Alan Lowenthal
TNT Subcommittee Hearing: The Abu Dhabi Pre-Clearance Facility: Implications for U.S.
Businesses and National Security
Wednesday, July 10, 2013
1:30pm

Chairman Poe and Ranking Member Sherman,

I want to thank you for holding this hearing on the Abu Dhabi Pre-Clearance Facility. Commissioner McAleenan, President Calio and Captain Lee Moak I want to thank you for testifying before the committee today.

While I think that pre-clearance facilities are important for international travel, I have concerns about the selection of Abu Dhabi for this new pre-clearance facility and I want to know more about the selection process. For example, why did we select a location with no U.S. airline carriers? Why is this location paid for by another nation? Moreover, I would like to know if the U.S. Airline carriers were involved in the selection process for this pre-clearance facility and were other options considered by the Department of Homeland Security? Finally, I would like to know what this means for the selection of future pre-clearance locations.

I look forward to the testimony and this hearing. Thank you

Mr. Chairman and I yield back the rest of my time.



QUESTION FOR THE RECORD OF THE HONORABLE TED POE

**SUBCOMMITTEE ON TERRORISM, NONPROLIFERATION, AND TRADE, U.S. HOUSE OF
REPRESENTATIVES**

**“THE ABU DHABI PRE-CLEARANCE FACILITY: IMPLICATIONS FOR U.S. BUSINESSES AND
NATIONAL SECURITY”**

July 10, 2013

The following questions were directed to Mr. Kevin K. McAleenan, Acting Deputy
Commissioner, U.S. Customs and Border Protection, U.S. Department of Homeland Security:

1. How much does CBP collect in airport fees and how much is spent on customs at airports?

QUESTION FOR THE RECORD OF THE HONORABLE JOE WILSON

SUBCOMMITTEE ON TERRORISM, NONPROLIFERATION, AND TRADE, U.S. HOUSE OF REPRESENTATIVES

“THE ABU DHABI PRE-CLEARANCE FACILITY: IMPLICATIONS FOR U.S. BUSINESSES AND NATIONAL SECURITY”
 July 10, 2013

The following questions were directed to Mr. Kevin K. McAleenan, Acting Deputy Commissioner, U.S. Customs and Border Protection, U.S. Department of Homeland Security:

1. I understand that the agreement with Abu Dhabi was only recently finalized. Can you tell us what issues caused the delay between the agreement's public announcement and its execution and do you plan to make the agreement public in the interests of open and transparent government?
2. One follow-up to that question: have any employees or officials at DHS or CBP discussed the substance of today's hearing - including contact for the purposes of preparing testimony or for questions that Members of this Committee might pose - with any national from or representative of the government of the UAE?

[NOTE: Responses to the previous questions were not received prior to printing.]

